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OVERSIGHT HEARINGS ON SECTION 14(C) OF THE FAIR LABOR STANDARDS ACT

HEARINGS

BEFORE THE

SUBCOMMITTEE ON LABOR STANDARDS

OF THE

COMMITTEE ON EDUCATION AND LABOR

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

SECOND SESSION

HEARING HELD IN WASHINGTON, D.C. ON

MAY 14 AND 15, 1980

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OVERSIGHT HEARINGS ON SECTION 14(C) OF THE FAIR LABOR STANDARDS ACT

WEDNESDAY, MAY 14, 1980

House of Representatives,
Subcommittee on Labor Standards,
Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:40 a.m., in room 2257, Rayburn House Office Building, Hon. Edward P. Beard (chairman of the subcommittee) presiding.

Members present: Representatives Beard and Erlenborn.

Staff present: Earl F. Pasbach, staff director; James M. Stephens, associate minority counsel for labor; John J. Smollins, special counsel; and Mary Lou Granahan, research assistant.

Mr. Beard. The committee will come to order.

Good morning, ladies and gentlemen. I am Congressman Beard, Democrat of Rhode Island, chairman of this subcommittee.

Today we begin 2 days of hearings particularly dealing with the sheltered workshops. I am very, very happy to have all of you here today and to have some outstanding witnesses. All of us certainly look forward to the testimony that we will receive today and tomorrow.

[The opening statement of Edward P. Beard follows:]

Opening Statement of Hon. Edward P. Beard, a Representative in Congress From the State of Rhode Island

Good morning ladies and gentlemen: Today we begin the first of two days of oversight hearings on the Fair Labor Standards Act. In particular, we will be focusing on the administration and enforcement by the Department of Labor of Section 14(c) of the Fair Labor Standards Act which permits the employment under special certificate of individuals whose capacity is impaired by age or physical or mental deficiency or injury at wages that are lower than the established wage.

However, the wage paid to these workers cannot be less than 50 percent of the minimum wage and must be commensurate with those wages paid to local nonhandicapped workers who do the same type quality and quantity of such work.

This act further provides that another category of worker be established who will work in so-called work activity centers. These workers are multihandicapped individuals and others whose earning capacity is so severely impaired that they are even unable to engage in competitive employment so as to obtain wages at a level of 50 percent of the minimum wage.

Those employees who man the sheltered workshops may be blind, physically impaired, retarded or all of the above. They need the help of the community at large to progress into the competitive employment market, if they are able.

We will hear from organizations who represent blind workers, who feel as though blindness should not be a deterrent from being accorded the right to receive the full established minimum wage.

The retarded also contend that if the blind are entitled to the minimum wage, they must also be so entitled. There are those who represent the retarded community who feel that work activity centers should not be physically separate and apart from the ordinary sheltered workshop, but should be integrated with it, so as to mutually benefit all handicapped workers.

There is criticism that the operators of sheltered workshops are not using the proper standards to insure that their employees receive the highest possible wage, and that the operators of such workshops do little to help and encourage handicapped workers to leave the workshops environment and to progress on to competitive employment.

These questions are but a small part of the complexities concerning the sheltered workshop programs and it is hoped that these hearings will give the subcommittee a greater insight into their nature, extent and possible solution.

Mr. BEARD. The first witness on the list is the Honorable Patricia Schroeder.

Pat, do you have a prepared statement?

Mrs. SCHROEDER. Yes, I do. I think it has been turned in.

Mr. BEARD. All right. That statement will be incorporated totally into the record and you may proceed.

[The prepared statement of Patricia Schroeder follows:]

Prepared Statement of Hon. Patricia Schroeder, a Representative in Congress From the State of Colorado

NEWCOMERS TO A DENVER, COLORADO CENTER FOR THE BLIND, AS PART OF THEIR ORIENTATION, RECEIVE AN EMPLOYEE HANDBOOK EXPLAINING THE FACILITY. THE FORWARD OF THE HANDBOOK STATES THAT THE SOLE PURPOSE OF THE CENTER IS TO "PROVIDE SERVICES FOR THE BLIND PERSON WHOSE GOAL IS GAINFUL EMPLOYMENT EITHER THROUGH PLACEMENT IN COMPETITIVE INDUSTRY OR IN EMPLOYMENT WITHIN THE FACILITY, WHICHEVER WILL SERVE YOU TO YOUR BEST ADVANTAGE". THIS EXPLICIT AND SEEMINGLY ALTRUISTIC PURPOSE, HOWEVER, CONTAINS THE IMPLICIT AND UNDERLYING REASON WHY THE NEWCOMER WILL NOT RECEIVE THE FAIR AND MINIMUM WAGE FOR WORK IN THAT CENTER, THE REASON I SIT BEFORE YOU TODAY.

MANY WORKSHOPS FOR THE BLIND CONSIDER THEMSELVES TO BE BOTH A REHABILITATION CENTER PROVIDING SERVICES TO THEIR "CLIENTS", AND A PLACE OF EMPLOYMENT PROVIDING WORK TO THEIR "EMPLOYEES". THIS WORKSHOP SCHIZOPHRENIA RESULTS IN UNACCOUNTABLE MANAGEMENT AT THE DISADVANTAGE OF THE WORKERS. WORKSHOPS FOR THE BLIND SHOULD WEAR ONLY ONE HAT, THAT OF AN ACTUAL WORKPLACE, AND GEAR THE OPERATION ACCORDINGLY, WHICH INCLUDES PAYING ITS PERSONNEL THE

CURRENT MINIMUM WAGE.

TODAY, CENTERS FOR THE BLIND ARE MAINLY PLACES WHERE GOODS ARE PRODUCED FOR SALE TO PUBLIC AGENCIES OR COMMERCIAL OUTLETS. THIS IS DIFFERENT THAN YEARS AGO WHEN WORKSHOPS WERE NOTHING MORE THAN ADULT DAY CARE CENTERS TO KEEP THE BLIND ISOLATED FROM THE REST OF SOCIETY. TIMES FORTUNATELY CHANGED AND MANY NON-WORK RELATED ACTIVITIES AND SERVICES ARE NOW DONE OUTSIDE THE WORKSHOP. THE ADULT DAY CARE CENTER EVOLVED INTO A LABOR-INTENSIVE PRODUCTION FACILITY.

EVERYBODY BUT THE WORKSHOP OPERATORS, IT SEEMS, NOTICED THE EVOLUTION. TWO LABOR GROUPS, THE COMMUNICATION WORKERS OF AMERICA AND THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS, TRIED TO ORGANIZE INDIVIDUAL WORKSHOPS, REALIZING THE PLIGHT OF THE EMPLOYEES. BUSINESSES AND BUSINESS ASSOCIATIONS, LIKE THE OFFICE PRODUCTS MANUFACTURERS ASSOCIATION, RECOGNIZED THE POTENTIALLY UNFAIR COMPETITION THEY FACE FROM THE WORKSHOPS. THESE WORKSHOPS ARE EVEN ELIGIBLE FOR AID FROM THE SMALL BUSINESS ADMINISTRATION, WHICH INDICATES GOVERNMENT AWARENESS OF THEIR BUSINESS NATURE. THE FACT THAT WE ARE SITTING IN A LABOR SUBCOMMITTEE HEARING TODAY ALSO ATTESTS TO THAT AWARENESS.

SINCE THE WORKSHOP FOR THE BLIND IS NOT A THERAPY CENTER BUT RATHER AN ACTUAL WORKPLACE, IT FOLLOWS THAT PROPER MANAGEMENT TECHNIQUES AND EFFICIENCIES SHOULD BE USED, WHICH DOESN'T SEEM TO BE THE CASE. IT ALSO FOLLOWS THAT EMPLOYEES SHOULD BE ENTITLED TO THE RIGHTS AND BENEFITS WHICH OTHER AMERICAN WORKERS ARE GUARANTEED, INCLUDING THE MINIMUM WAGE, WHICH IS OBVIOUSLY NOT THE CASE.

MUCH HAS BEEN SAID ON THE NATIONAL LEVEL SUGGESTING MANAGERIAL INEFFICIENCY, INSENSITIVITY OR NEGLIGENCE. THE CONTRIBUTION I WISH TO MAKE ON THIS IS ONE OF A LOCAL NATURE. ALLOW ME TO SUBMIT FOR THE RECORD THE COMMENTS ON THE WORKSHOP FOR THE BLIND IN DENVER MADE BY SOME OF ITS EMPLOYEES. ALSO, ALLOW ME TO SUBMIT STATEMENTS FROM THE PRESIDENT AND VICE PRESIDENT OF THE COLORADO FEDERATION OF THE BLIND ON WHAT THEY SEE AS THE PROBLEM.

ONE QUESTIONABLE MANAGEMENT PRACTICE MENTIONED IN THOSE COMMENTS IS TYING THE WAGE SCALES TO PRODUCTIVITY. THIS IS ONLY AN EXCUSE FOR NOT PAYING THE MINIMUM WAGE AND A PERFECT EXAMPLE OF THE SELF-FULFILLING PROPHECY. IF THE PRODUCTION OPERATION IS GEARED TO LOW PRODUCTIVITY, BY INEFFICIENT PRODUCTION SPACE LAYOUT, OUTDATED OR BROKEN EQUIPMENT, AND INADEQUATE TRAINING, NATURALLY THE PRODUCTIVITY AND THE WAGES, ON A PRICE-PER-UNIT BASIS, WILL BE LOW.

OPERATORS CLAIM THAT PAYING THE MINIMUM WAGE WOULD PUT THE WORKSHOP OUT OF BUSINESS AND THEIR CLIENTS ON THE STREETS. A TOP TO BOTTOM REORGANIZATION COULD CUT PRODUCTION COSTS AND ALLOW THE MINIMUM WAGE TO BE PAID. THIS IS NOT AN IMPOSSIBLE DREAM. IT DOES HAPPEN IN OVER FIFTEEN WORKSHOPS NATIONWIDE. IF THESE CENTERS FOR THE BLIND CAN PAY THEIR EMPLOYEES THE CURRENT MINIMUM WAGE, WHY CAN'T THE REST?

PLANT EFFICIENCY CAN BE IMPROVED ONLY SO MUCH. THAT'S WHY EACH COMPONENT OF THE NATIONAL WORKSHOP SYSTEM SHOULD ALSO LOOK TO ATTRACT MORE BUSINESS. THIS IS SOMETHING I HOPE THE SUBCOMMITTEE

ALSO LOOKS INTO. THE COMMITTEE FOR THE PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERLY HANDICAPPED (FORGET THE ACRONYM!) SHOULD EXPLORE WAYS TO INCREASE BUSINESS WHILE EVALUATING THE PRODUCTION METHODS USED BY THE WORKSHOPS. THE NATIONAL INDUSTRIES FOR THE BLIND SHOULD ALSO PUT HEAVIER EMPHASIS ON THE RECRUITMENT OF NEW PRIVATE SECTOR BUSINESS. INDIVIDUAL WORKSHOPS COULD ALSO DEVELOP THEIR OWN SALES REPRESENTATIVES TO PROMOTE WORKSHOP-MADE PRODUCTS. WORKSHOP EMPLOYEES MUST REALIZE THAT QUALITY PRODUCTS MUST BE MADE AND ORDERS MUST BE FILLED ON TIME. THESE ARE IMPROVEMENTS THAT CAN ONLY BE MADE BY INITIAL CHANGES IN ATTITUDES. THE FIRST CHANGE IS CRUCIAL: REGARD WORKSHOP "CLIENTS" AS "EMPLOYEES".

THERE ARE CHANGES THAT CONGRESS CAN MAKE TOO. ONE IS THE PASSAGE OF HR 3764, TO AMEND THE FAIR LABOR STANDARDS ACT TO PROVIDE THAT BLIND PERSONS NOT BE EMPLOYED AT LESS THAN THE APPLICABLE MINIMUM WAGE. TO REMOVE THE BLIND FROM MINIMUM WAGE EXEMPTION REMOVES THE OUTDATED AND DISCRIMINATORY CRUTCH WORKSHOPS HAVE BEEN LEANING ON FOR YEARS. IT WOULD CURE THE SCHIZOPHRENIA WORKSHOP OPERATORS HAVE AND FORCE THEM TO RUN A PRODUCTIVE AND COMPETITIVE BUSINESS.

STATEMENT OF HON. PATRICIA SCHROEDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mrs. **Schroeder.** I appreciate the subcommittee looking at this incredibly difficult area. I don't know where to begin. You have the written statement in front of you. I suppose I can start with it at the very local level.

If you were in Denver, Colo., going to the center for the blind, part of your orientation would be getting an employee handbook that would explain the facility. I think that the handbook is very straightforward. It says in there that the center is to provide services for the blind whose goal is gainful employment, and this is the hooker, either through placement in the competitive industry or employment within the facility. So it is very clear and it is saying there is a competitive industry and then there is this facility.

I think that what I hear from many of the people who are in these facilities is that they want to be competitive also, that they really don't want to be seen as adult day care, that many of these agencies are manufacturing things and the goods are being sold to public agencies and commercial outlets. The form has changed a lot, they are doing a much more commercial and sophisticated type of production than they did in the past. They really go there to work and not to go to an adult day care center and they really want to be treated competitively, treated equally and be put under the Fair Labor Standards Act.

We have seen this going on nationwide. There have been some labor groups that attempted to organize some of these employees in the past because of their complaints. The Small Business Administration has now said that such workshops are eligible for aid which show that we clearly at the Federal Government level have decided that they are a business and not a workshop or a day care center. Office Products Manufacturers Association and other business associations like that have also recognized the unfair competition that they sometimes face from workshops when this transpires. I think these things are things the subcommittee should focus on, that these are not therapy centers but actually an actual workplace and they want management to be professional, they want management to be efficient, and they want the minimum wage which I think is a fair minimum request.

I would like to submit for the record the comments on the Workshop for the Blind that has been made by some of the employees to me. These are from Denver employees. I would also like to submit statements from the president and vice president of the Colorado Federation of the Blind as to how they view the problem if that is all right, Mr. Chairman, rather than read them.

[The written statements referred to above appear in the appendix.]

Mrs. **Schroeder.** Basically they are talking about the production operation, how it has been geared to low productivity, outdated and broken equipment, inadequate training, all those things that held back their productivity and then management uses that to say therefore we should hold down the wages, that the employees there would like very much to start being treated as employees and stop being treated as clients. I think that is probably their number one plea that is put out in these statements that I am putting in the record.

So people will say, I am sure, that this is impossible to do. If you look at the Nation, you will find that there are 15 workshops already doing it so it is not impossible. It is possible.

If you look at it, we are all disabled in some way, let's face it. Everybody has some kind of disability. Some of the most advanced societies have absolutely thrown out the whole concept of disability because they said otherwise we would have to classify everybody. So let's say that all of us are disabled. What they want to do if they are going to these workshops is to work and they want to work and they want to be competitive and they want to be efficient.

They would like to find ways to attract more business. They would like to go out and have their own people go out and recruit their own private sales representatives. Again, it all gets back to treating them as employees and not clients and moving them into the mainstream rather than saying we are going to keep a shelter or a fence around them and I think that is just the basic rights of human dignity.

That is in essence what is I want to say. I really commend the subcommittee for taking on this very difficult area. I hope some advancements will be made and that we will be able to amend the Fair Labor Standards Act to provide minimum wages for them in this area.

Mr. BEARD. I agree with your statement. I think that for too long sometimes we on the Hill have not recognized that because someone is blind it does not necessarily mean that for the rest of his or her life he should be considered different from anybody else. If he can do a job, the blind or otherwise handicapped worker should receive the same compensation as someone that has sight.

Mrs. SCHROEDER. That is right, and I hope we can overcome that.

Mr. BEARD. I think we can.

Mr. Erlenborn?

Mr. ERLENBORN. Thank you, Mr. Chairman.

Pat, thank you for your testimony. I would like to ask a few possibly technical questions.

I note that the bill that has been introduced—I believe you are one of the sponsors, one of the principal sponsors is Phil Burton—H.R. 3764 amends the Fair Labor Standards Act, the operative language being:

> No order, regulation or certificate may be issued by the Secretary under paragraphs 1, 2, or 3 of this subsection with respect to the employment of individuals who are blind or whose sight is impaired.

My first question is, if your theory is valid, why not just repeal the provision of the Fair Labor Standards Act that allows these certificates to be issued for the handicapped generally?

Mrs. SCHROEDER. Well, Mr. Burton drafted the bill and is much more aware of the technical provisions of the Fair Labor Standards Act. I have not gotten through the bill and he seems to think that is the way to go, that H.R. 3764 would be the better way to go than the other. I think it is clear that what everyone on that bill wants is to remove the exemption of people who are blind from receiving the fair minimum wage. That is the intent.

Now the committee, in its wisdom, decided there is a better way to do it—that is the reason we have hearings. He drafted the bill and he thought that was the best way to go, and not being an expert on fair labor standards I thought he probably would know.

Mr. Erlenborn. An allied question is why would you single out only the blind to have this favored treatment of getting the minimum wage?

Mrs. Schroeder. Well, I would not. As I see it, it is probably a beginning to look at each of these different areas but the blind have been shown to be very productive in other parts of the country and have been able to meet the minimum wage standard. As I say, I think it has been a difficult transition period because originally these workshops were more of a day care center, let's face it. Now that we have seen that we were underrating people, we were really putting them down, that they are absolutely as qualified to do something with their dexterity because that is what you are talking about, the manual dexterity problem, then they should not be under that shelter, that crutch.

I think you probably have to look at each type and see whether it is viable and you can survive that way and whether they can go out and be competitive that way. But it appears that in the area of visual impairment they can compete that way, they want to compete that way, and it is just a matter of getting them out from under so that people don't use it against them.

Mr. Erlenborn. Another question. This bill makes no distinction between a workshop which produces commercially and an activity center where there is no real commercial work product. Rather the center is providing a sheltered place for activity for the blind who are paid a small stipend to engage in that activity.

Now this would make no distinction between those two types of facilities?

Mrs. Schroeder. Well, I think it could make a distinction between the types of facilities. I think that was what I was trying to say and maybe I was not clear.

Mr. Erlenborn. The bill does not do that. It says the Secretary may not issue any exemption certificate for anyone who is blind. Even if they are multiple handicapped, you don't make a distinction there between one who is blind and including blindness, you just say if a person is blind they no longer can be employed under one of these certificates.

Mrs. Schroeder. I think they are saying if it is a facility or service center, then you are not paying people. They may be paying people if they are working. We are working and we want to be competitive in that ballpark. If we are not, if it is a facility or a care center or a rehabilitation center or whatever, then you really are not getting paid to do that, that is the service being rendered to the person and they are tax exempt and they come under something else.

Mr. Erlenborn. You don't think the Secretary would rule that way?

Mrs. Schroeder. I think that is the right line that is being asked for, to draw that and not blur it and say we cannot comply with the laws because we are a little bit of this and a little bit of that. Let's say if we are working, we are working equally. If we are not working, then we are over on this side and that should come under the charitable deductions and all the other tax exemptions and the things that are around. I think that is a fair request because otherwise you get caught in this whipsaw of you are not going to get equal treatment because this is really not the same kind of thing as everything else. Either it is or it isn't and I think that we would like to have that. I think maybe we did it in the statement.

In the name of altruism and wanting to protect people and say you think you are working, you are not really working, you are not really productive so we are not going to treat you as a total worker. They are saying, we want to work, we want to be productive, we want to be equal and if we can't cut the mustard there then we shift over into the service receiving line. You would not be manufacturing, you would not be attempting to even go along with the facade that you were trying to do something. You would say you are getting rehabilitation service or training or whatever it is and that would be a different kind of program, maybe a CETA program if it was job training and you get paid under that, but it is still different.

Mr. **Erlenborn**. There are two different ways that you can look at the minimum wage law generally, and this has been commented on by many economists. One interesting theory is that of Walter Williams, a well known black economist from Temple University, who says the minimum wage is nothing other than the Federal Government telling a willing employer and a willing worker, "You may not have this job."

You are destroying jobs. People who could be gainfully employed for $2.50 an hour today are not employed because the minimum wage is $3.10. Young people are denied employment because jobs are destroyed by the Federal Government telling a willing worker he cannot work for any figure less than that. I fear that, as well meaning as this legislation might be, what you will be doing is destroying the opportunity for gainful employment for people.

Mrs. **Schroeder**. Let me say on the other side of the coin is that I think it is equally as valid, and that is that I have seen very few employers run out and say, listen, we are going to give you more money because you are all doing such a good job. It has been a real fight by workers to gain every inch.

I think it was Andrew Carnegie who said, why would you hire a man for a dollar a day if you could get a kid for 10 cents. That is when we finally moved to have child labor laws. You know, if you can get 10 kids for 10 cents, they clearly equal the work of one man, but we decided that is not the way to go.

I think the minimum wage law has been put in because we figure if the job can produce that kind of an hourly wage, the human being probably can't live at a certain level of dignity and that it is kind of the minimum floor of what it costs to live in our society. Maybe we don't like that, but I think we all know that maybe we can give people jobs for 75 cents an hour or $1.50 an hour, but they cannot live.

We have not accomplished anything. We have not got housing. We have not lifted the ceiling so they can work 80-hour weeks so they can make the same amount of money. I think that is equally valid. There is always the temptation not to give any more than you have to. I think that that is just a mind set that we as human beings all hold to.

Mr. **Erlenborn**. I have heard that argument over the years and yet, what is happening? The unions come up here and they use the figure to establish the minimum wage at the poverty level for an urban family of four with one wage earner. They set the minimum wage at that level and then apply that to kids who are going to school trying to get a part-time job, apply that to youngsters with no job experience who are desperately looking for that first opportunity to get a job and learn something.

Mrs. Schroeder. They may well be in a family and you——

Mr. Erlenborn. Anybody can work for any salary. It does not force anybody to work. They can bargain for the highest level of pay they can get.

Mrs. Schroeder. I guess we just are never going to reach an agreement on this, Mr. Erlenborn. I think that I just don't agree with what you are saying. I don't think we want a minimum wage that shows bare existence for one person not going to school, not going to anything. Obviously, a family of four takes a certain amount in an urban area, but that is where the jobs are, in an urban area. In a remote county in Mississippi you may be able to live for less, but if the jobs are not there, people are not going to live there, so that is kind of an invalid statistic.

Mr. Erlenborn. We should have a different wage for every person depending on the number of dependents he has. If your theory is valid, that is the way it ought to be done.

Mrs. Schroeder. I doubt very seriously that you pay people differently in your office depending on how many dependents they have, but maybe you do. [Applause.]

Mr. Beard. Order.

Mrs. Schroeder. I just feel very strongly that no matter how you set the minimum wage, we are a little bit off the issue. No matter how you set the minimum wage, to say blind people or visually impaired people can live below that is probably wrong. If anything, their expenses would be above that. I sit here as a visually impaired person. I would like to be an airline pilot and can't because I don't have the visual acumen. I was physically blind at the age of 6, yet you don't give me special consideration in Congress because of the physical impairment.

Mr. Erlenborn. Thank you very much.

Mr. Beard. Pat, if a person is blind and he can do the job, that person should get paid the minimum wage. If a handicapped person may not be able to do a job, he should not get the minimum wage.

For example, we have a retired judge in Rhode Island, Judge Powers. His blindness did not prevent him from becoming a State attorney general and a judge of the Rhode Island Supreme Court. If a blind person was severely retarded and unable to do the job, he should not receive the minimum wage just because the law says so. I think it should protect only a person that is qualified.

Mrs. Schroeder. I think that is what they are saying. The people I have heard said, "Look, we are qualified but we are being held down because they are lumping us down," and saying 3 percent may be less than qualified, therefore we are going to pay all of you less than the minimum wage. We have not been fair in dealing with this area. We have said if you have a little bit of a disability, we are going to put you all in there in the name of protecting you. I think that is clearly what I am trying to say—if you treat them, if they are qualified, as qualified employees and just forget all the shelter and disability and everything else and get away with that patronizing.

Mr. Beard. That is the way it has to be.

Mr. Erlenborn. Might I just observe, if you read the law, the law does not allow the Secretary to issue certificates for subminimum wages for people merely because they are blind. I would suggest that those who are sponsoring this legislation look at the law. It says, for instance, "to the extent necessary in order to prevent curtailment of opportunities for employment or for work activities, centers to provide therapeutic activities for people whose physical or mental impairment is to make it inconsequential." Yet this proposed legislation would wipe out those employment opportunities where the Secretary does not have the authority to say if you are blind, you can be employed at a subminimum wage. It is only in these special circumstances where otherwise these activities and this employment would not be made available. Almost by definition, this bill will destroy employment opportunities for severely handicapped people.

Mrs. **Schroeder.** That is not right. Fifteen have been able to move out of that. I hear what you are saying. If you look at how the Secretary has implemented the law——

Mr. **Erlenborn.** There are special circumstances that allow the Secretary to grant a certificate only if he finds that these things spelled out in the law exist, and you are treating this as though it applies to all blind. It just is not true.

Mrs. **Schroeder.** If you find that you have a work shift where a certain percentage are saying they could not make it competitively, then the whole thing gets a certificate and everybody is lumped under that. We are saying it should be much more sophisticated where you are saying those who are competitive can get the full competitive pay scale. Those who are not, then you put in another category, but to just have a sheltered workshop where you lump everyone together is probably not as sophisticated as the law should be.

Mr. **Erlenborn.** I am not so certain you are doing a favor for the blind either if you have some representative of the Secretary sitting in each one of these centers making a personal judgment as to each applicant's worth.

Mrs. **Schroeder.** No; you are not asking whether they are worthy. I think you are asking whether or not they can do the job. I think you will find, at least as I went through our workshops—and I went through the outside private sector one—there was no difference that I could see that was discernible, except the outside sector was making more money.

Mr. **Erlenborn.** The Secretary is not doing his job.

Mrs. **Schroeder.** Well, maybe this committee can make the Secretary do his job.

Mr. **Beard.** We will have the Secretary on shortly. [Laughter.]

Pat, thank you very much for your testimony.

The next witness is the Honorable Barry Goldwater, Jr., of California.

Mr. **Goldwater.** Yes, Mr. Chairman, that has been submitted.

Mr. **Beard.** That statement will be accepted totally into the record, and you may proceed.

[The prepared statement of Barry M. Goldwater, Jr., follows:]

PREPARED STATEMENT OF HON. BARRY M. GOLDWATER, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman:

I appreciate the opportunity to appear before you and your colleagues this morning, and commend you for your interest in the problems of the blind and the handicapped.

My own interest in this area stems from charges brought forth by a constituent, Jerry Lorenz, President of Lorenz Housewares of Newbury Park, California, and by the content of a series of articles on this subject by Jerry Landauer, staff reporter for the Wall Street Journal.

I, personally, do not know whether the workshops for the handicapped are being properly administered, or whether their management has taken them far beyond the boundaries described in their enacting legislation.

I have two basic concerns: (1) have the handicapped workshops become the tool of those who would unfairly compete with the private sector? (2) do the workshops provide the best possible employment and training for the handicapped person, including equitable financial compensation for the work performed?

In order to get the most knowledgeable answers to these questions, last July I requested a full-scale investigation by the General Accounting Office. That investigation is now in progress, and three full-time investigators are working on the answers to these crucial questions.

I will be happy to share the report with you as soon as it is delivered to me. For the record, I have also included a copy of my request to the GAO.

I would also like to introduce for the record a statement by Jerry E. Lorenz, who could not be with us here this morning.

His statement and enclosures are included with my statement, Mr. Chairman.

Again, thank you for the opportunity to appear before you this morning.

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BARRY M. GOLDWATER, JR.
20TH DISTRICT OF CALIFORNIA

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION
COMMITTEE ON SCIENCE AND
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July 10, 1979

Elmer B. Staats
Comptroller General
General Accounting Office
441 G Street, N.W.
Washington, D. C. 20548

Dear Mr. Staats:

It has been recently brought to my attention that the National Industries of the Blind (NIB) and their affiliated workshops may be in serious violation(s) of the letter and spirit of their original enacting legislation that permits them to pay blind workers at less than minimum wage; additionally, there appears to be serious question as to whether or not they are operating outside the parameters of federal statutes that exclude them from a number of taxes and regulations.

Enclosed are two articles from the January 25th and 26th issues of the Wall Street Journal, and a synopsis of problems being experienced by private industry which faces competition by many of the workshops; the synopsis was prepared by a constituent, who is available to you and your staff.

Furthermore, I have been in contact with Ellen Brown and Jerry Lewson, Assistant Advocates in the Office of the Chief Counsel of Advocacy at the Small Business Administration. Mr. Brown has a detailed and voluminous file on this matter, and he will cooperate with you and your staff in this investigation, and share his information with you.

I request that an investigation of this entire matter be initiated at the earliest possible date, with a view toward remedial legislation, if necessary. The allegations raised in the enclosed WSJ articles should be fully explored, as should the minimum wage, tax exemptions, and overall status of the NIB and its competitive relationship with the private sector be given a careful and detailed analysis. Recommendations should be made to improve what is a now complicated and confusing situation.

I would ask that the best interests of the blind be kept in the forefront during this investigation, and that such be taken into consideration in any recommendations your staff may make.

Many thanks for your assistance in this important matter.

Best regards,

Barry M. Goldwater

BARRY M. GOLDWATER, JR.
Member of Congress

BG/sse

STATEMENT OF HON. BARRY M. GOLDWATER, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. GOLDWATER. Mr. Chairman, I appreciate the opportunity to appear before you and your colleagues this morning and compliment you for your interest in the problem of the blind and the handicapped. My own interest in this area stems from charges brought forth by a constituent, Mr. Jerry Lorenz of Newbury Park, Calif., and by the contents of a series of articles on this subject by Mr. Jerry Landauer, staff reporter for the Wall Street Journal. I personally do not know whether the workshops for the handicapped are being properly administered or whether their management has taken them far beyond the boundaries described in their enacting legislation.

I have two basic concerns: one, that a handicapped workshop becomes the tool of those who would unfairly compete with the private sector, or two, do the workshops provide the best possible employment and training for the handicapped person, including equitable financial compensation for the work performed. In order to get the most knowledgeable answers to these questions, last July I requested a full-scale investigation by the General Accounting Office. That investigation is now in progress and three full-time investigators are working on the answers to these crucial questions.

I will be happy to share this report with you as soon as it is finished and delivered to me. For the record, I have also included a copy of my request to the GAO. I would also like to introduce for the record a statement by Mr. Jerry Lorenz who could not be with us here this morning.

I again thank you for this opportunity to appear before you and to present the information.

[The written statement of Jerry Lorenz appears in the appendix.]

Mr. BEARD. Thank you very much, Congressman Goldwater.

You have heard the testimony previously by Patricia Schroeder. What about a workshop where some people are competitive and maybe some are not. Should there be some way of distinguishing between the two groups under the minimum wage law?

Mr. GOLDWATER. Mr. Chairman, I have never totally ascribed to a blind minimum wage provision. I think out in the field that there is merit to what Mr. Erlenborn was speaking about, that by establishing the minimum wage you are saying to some people that they are not allowed to work. I happen to think that people should be judged on the merit of their own individual performance and not blanketed under some broad category that tends to set them apart from somebody else, but in fact these people should be paid or not paid for their ability to make their contribution or perform a job.

Mr. BEARD. Do you think work activity centers should be separated physically from sheltered workshops?

Mr. GOLDWATER. I do not have an opinion on that.

Mr. BEARD. Mr. Erlenborn?

Mr. ERLENBORN. Thank you, Mr. Chairman.

Thank you, Barry, for your testimony, particularly that part where you said you tend to agree with me. That is always a winner. [Laughter.]

Mr. **Goldwater.** Maybe I should have said it the other way around, that you agree with me.

Mr. **Erlenborn.** I would be happy to do that.

I don't think I have any other questions except I take it that from your agreement you believe that just a blanket exemption of the blind from the certification for subminimum wage would not necessarily be in the best interests of all of them.

Mr. **Goldwater.** Well, I hesitate to make any comment on that, primarily because there are unanswered questions that I think need to be answered in this regard. I don't really have all the facts to know the merits or demerits of such a proposal and I guess that is why I appear here today without expressing an opinion one way or the other. The General Accounting Office is currently looking into, in a very in-depth way, some of these charges and allegations and, not being an expert on the area, not working on a daily basis, I don't really have a feel for it.

I would suggest that you probably would need to talk to people who are directly involved in these programs and certainly the handicapped themselves, visually impaired, who know better than anyone what the conditions are.

As soon as this report is ready, I think it may shed some light on the questions that you are asking.

[The report is due to be completed by the General Accounting Office by February 1981.]

Mr. **Beard.** The next witness is the Honorable Donald Elisburg, Assistant Secretary of Labor.

[The prepared statement of Donald Elisburg follows:]

PREPARED STATEMENT OF DONALD ELISBURG, ASSISTANT SECRETARY OF LABOR, EMPLOYMENT STANDARDS ADMINISTRATION, DEPARTMENT OF LABOR

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity today to discuss the administration and enforcement of the handicapped worker provisions under Section 14(c) of the Fair Labor Standards Act (FLSA). We believe that this is a particularly opportune time to discuss this issue since it coincides with the observance of the International Year of the Handicapped. At the outset, Mr. Chairman, I want to assure you and members of this Subcommittee that the Department of Labor cares about the welfare of workers in sheltered workshops and is committed to the vigorous enforcement of fair labor standards in those workshops. We recognize and appreciate the importance of the payment of fair wages to handicapped individuals working in sheltered workshops. It is through gainful employment at fair wages that these workers can lead a productive life and obtain independence and self-fulfillment.

The Department's primary objective for the handicapped worker program is to monitor wage payments to insure that these workers are paid wages commensurate with their productivity. The Department bears a particular responsibility to see that this program is vigorously enforced. We are talking about men and women who are largely poor and unorganized and who hesitate to question their pay. This is the context within which the Department conducts its enforcement program.

Before commenting on our administration of the sheltered workshop program, let me briefly review the statutory requirements governing the employment of handicapped individuals at subminimum rates, and recent trends as to the severity of disabilities of workers employed by sheltered workshops. There have been provisions in the FLSA for the employment of handicapped workers at subminimum wages since its enactment in 1938. These provisions were included in the Act to enable handicapped workers with impaired capabilities to obtain and hold employment. To the extent necessary in order to prevent the curtailment of opportunities for employment, section 14(c) of the present law authorizes the Secretary of Labor to provide for the employment of persons handicapped by age or physical or mental disability at special rates below the applicable statutory minimum. To ensure that these workers are fairly paid, the Act requires that a handicapped worker under a subminimum wage authorization be paid on the basis of his or her productivity as it compares with the productivity of the nonhandicapped for essentially similar work.

The FLSA and implementing regulations provide for several types of programs to accommodate the training needs and varying productive abilities of the handicapped workers. Thus, the more productive workers are required to be paid at least 50 percent of the minimum wage or at rates commensurate with their productivity, whichever is higher. The beginning workers, who are participating in evaluation or training programs of limited duration, are required to be paid at their commensurate earnings. Similarly, the wages of severely impaired workers in work activities centers are based solely on their productivity. A work activities center is defined in the law as a center which provides therapeutic activities for handicapped clients whose physical or mental impairment is so severe as to make their productive capacity "inconsequential." To assure that the handicapped individuals served in work activities centers are, in fact, "inconsequential" producers, as required by law, certain monetary tests have been established by regulation.

The great majority of the millions of handicapped workers in this country are engaged in competitive employment and are paid at the minimum wage or higher. Thus, workers employed in sheltered workshops represent a small but significant minority of the total handicapped worker population. Both the number and severity of disabilities of workers employed in sheltered workshops have changed dramatically over the last decade. In 1969, there were about 1,100 certificated sheltered workshops in existence employing nearly 52,000 workers. Today, there are some 4,000 certificated workshops employing nearly 180,000 workers. In 1969, work activities centers, where the most severely handicapped individuals are employed, accounted for slightly under a third of the total handicapped worker population in sheltered workshops. Today, these work activities centers account for slightly over two-thirds of all sheltered workshop employment.

As a result of these developments, there are two distinct groups of workers employed in sheltered workshops. The first group is comprised of those individuals who, with some training or help, can be employed in the regular workforce, or who can earn enough in a workshop to be self-supporting. The second group--and this is by far the larger group--consists of those individuals who may never be able to leave the protective environment of the workshop. We expect this group to account for an even larger proportion of the total workshop population in the coming years. We believe that the forces contributing to the increasing proportion of total workshop employment accounted for by the severely handicapped will continue to be emphasized. These forces include (1) the "deinstitutionalization" of the mentally disabled and their placement in facilities where they have easier access to workshops, and (2) the substantial expansion of funding for services and extended care for the severely handicapped.

We now have a situation where the yardstick for measuring the success of a workshop cannot simply be how many leave the workshop to enter competitive employment. Success must also be measured in more human terms for the severely handicapped--the sense of accomplishment and self-respect as well as income earned commensurate with their efforts.

I am sure, Mr. Chairman, that you and the members of this Subcommittee, are familiar with the series of Wall Street Journal articles written last year suggesting that all is not well in the administration of the sheltered workshop program. Even prior to the publication of these articles, we recognized that there was a need to strengthen the management of the workshop program and to commit more of our resources to its enforcement. Now let me turn to some of the specific actions that have been taken during the past year or so to improve the administration of the sheltered workshop program.

Any time you look at an enforcement program such as the Section 14(c) program under the Fair Labor Standards Act, there is understandable concern that violations would occur of the magnitude found in recent years. In Fiscal Years 1978 and 1979, our compliance field staff found over $900,000 in underpayments in each of those years. In Fiscal Year 1979 alone, nearly 5,000 workers were found to be paid in violation of the monetary requirements of the FLSA. We are further disturbed that 57 percent of the workshops investigated in Fiscal Year 1979 were found in violation of the monetary requirements of the FLSA.

Mr. Chairman, findings like these made it clear to me that there was need to further improve the administration and enforcement of the sheltered workshop program. During

Fiscal Year 1980, 10 percent of the some 4,000 sheltered workshops will have been investigated. The percentage of investigations is roughly four times as high for workshops as it is for the universe of establishments covered by the FLSA.

We have not only taken steps to improve the number of investigations conducted, but also the quality of those investigations. Due to the complexity of sheltered workshop investigations, it is imperative that reviews be conducted by compliance officers well-trained in the special procedures and technical problems involved in this type of investigation.

An intensive formal training program has been developed for all compliance officers. Our regional and national office workshop specialists have conducted training courses throughout the country. The basic course covered such areas as work measurement and time and motion studies, contract bidding, performance evaluation, job layout, and prevailing rates.

As I mentioned earlier, the Act requires that handicapped workers employed under special rates lower than the applicable minimum wage must be paid wages commensurate with those paid nonhandicapped workers in industry in the vicinity for essentially the same type, quality and quantity of work. To produce equitable results, it is imperative that the most authoritative work measurement techniques be used to determine "commensurate wages." The proper determination of "commensurate wages" is vital to a vigorous enforcement of the rights of handicapped workers in sheltered workshops to be paid fair wages for their work.

In view of the critical importance of the concept of commensurate wages to the enforcement of the handicapped worker provisions of the FLSA, we have developed, in consultation with recognized time and motion study experts, a work measurement course for our Regional Sheltered Workshop Specialists and the some 100 compliance officers designated throughout the country to conduct sheltered workshop investigations. This intensive training course covers a system of work measurement that applies widely accepted techniques to a work situation in order to determine the length of time required for a qualified, competent worker to accomplish a prescribed task in a given situation. The main objective of the training is to provide our compliance officers with an accurate yardstick against which to measure the productivity of the handicapped.

Another major effort to improve the quality of sheltered workshop investigations involves the redrafting of the procedural guide to more fully meet the needs of compliance officers responsible for conducting these investigations. The task of revising this guide is nearing completion, and it soon will be ready for final editing and printing.

In addition to strengthening our investigative program, we have taken several steps to improve internal processing procedures of renewal applications for authorization to pay special subminimum wage rates. Automated data processing (ADP) techniques are being introduced and will play a significant role in improving the quality of our review of certification determinations. We will automate several of the more routine clerical duties. As a result, the sheltered workshop certification staff will be able to concentrate on the analysis of the more substantive aspects of the application. This includes the analysis of data to support how wages are determined, prevailing wages paid in the industry for similar work, the number of workers who have not received wage increases in the past year, financial data, and the extent to which handicapped workers shared in the income of the workshop.

During the past year, we have expanded our efforts to see that (1) employees know their rights under the law and (2) workshop managers know their obligations under the law. I have stressed the importance of maintaining effective communication channels with organizations representing sheltered workshop workers. We meet with workers' organizations to inform them of significant changes in the administration of the sheltered workshop program. These meetings serve as a forum for consumer organizations to communicate their concerns, identify problems, and make suggestions to improve the administration of the sheltered workshop program.

The Department recognizes that it is in the vital interest of handicapped workers that the sheltered workshops in which they work are well-managed. With this in mind, the Department has expanded its technical assistance program to provide information on the management of sheltered workshop We have widely distributed publications on costing and pricing policies developed specifically for sheltered workshop managers. Expertise in these areas is an essential element to a successful workshop operation. In addition to the distribution of these publications, we have made our regional sheltered workshop specialists available to discuss the publications with workshop managers.

We are nearing completion of an easy-to-use manual for workshop managers which will provide them with all the essential information needed to comply with the present law. The guide will more fully define critical concepts, such as commensurate and prevailing wages, and will use examples to show how to compute them. Acceptable work measurement techniques will also be illustrated. These efforts should help to allay the complaints voiced in the past by workshop managers that the complexity of the FLSA's requirements has significantly contributed to unintentional violations of that Act.

Mr. Chairman, we believe that for the first time, the sheltered workshop program is receiving the type of attention that a program of its importance warrants. We still have a number of problems to overcome, but we believe that we are now moving in the right direction. Our managers now understand that we expect the sheltered workshop program to be more than a paper processing operation. We plan to expand our role in the mainstreaming of employees. Toward that goal, we are exploring possible linkages between the sheltered workshop program and the Section 503 program under the Rehabilitation Act of 1973 for which the Department is also responsible. Section 503 requires that government contractors take affirmative action to employ and advance in employment qualified handicapped individuals.

This concludes my prepared statement, Mr. Chairman. My colleagues and I will be glad to answer any questions that you or the members of the Subcommittee may have.

STATEMENT OF DONALD ELISBURG, ASSISTANT SECRETARY OF LABOR, EMPLOYMENT STANDARDS ADMINISTRATION, ACCOMPANIED BY HENRY WHITE, DEPUTY ADMINISTRATOR, WAGE AND HOUR DIVISION; HERBERT COHEN, ASSISTANT ADMINISTRATOR, WAGE AND HOUR DIVISION; AND JAMES LEONARD, DEPUTY ASSOCIATE SOLICITOR, DIVISION OF FAIR LABOR STANDARDS, DEPARTMENT OF LABOR

Mr. BEARD. Welcome again, Mr. Elisburg, to this committee. Two days in a row on two different issues.

Mr. ELISBURG. If I may, Mr. Chairman, I have with me the Deputy Administrator of the Wage and Hour Division, Hank White; the Assistant Administrator, Herb Cohen to his right, and on my left Jim Leonard, who is the Deputy Associate Solicitor for the Division of Fair Labor Standards of the Department of Labor.

Mr. Chairman, I have a formal statement which I would like to have submitted for the record.

Mr. BEARD. All right. That will be incorporated into the record.

Because of the number of witnesses, we would request all witnesses to be as brief as possible. We have an awful lot of witnesses.

Mr. ELISBURG. I have a few comments I would like to offer this morning, Mr. Chairman.

It is not often that an administrator has the honor of appearing on successive days before the same committee of Congress to review the operations of different programs. I welcome the opportunity because I share your view that it is important to understand the myriad of labor standards programs that are under the jurisdiction of the Employment Standards Administration. If there is an analogy between the FECA and the sheltered workshop programs, it is that both have long been considered routine and both have suffered from a lack of attention by the policymakers of several successive administrations.

The Department of Labor's primary objective for the sheltered workshop program under section 14(c) of the Fair Labor Standards Act is to monitor wage payments to insure that handicapped workers are paid wages commensurate with their productivity. The Department bears a particular responsibility to see that this program is vigorously enforced since these workers are largely unorganized and often hesitate to question their pay. This is the context within which the Department conducts its enforcement program.

The great majority of the millions of handicapped workers in this country are engaged in competitive employment and are paid at the minimum wage or higher; that is, they are not in sheltered workshops. The 180,000 workers employed in sheltered workshops represent a small but significant minority of the total handicapped worker population.

There are two distinct groups of workers employed in these sheltered workshops. The first group is comprised of those individuals who, with some training or help, can be employed in the regular work force or can earn enough in a workshop to be self-supporting. The second group, this is by far the larger group, consists of those individuals who may never be able to leave the protective environment of the workshop. Many of these workers must stay in what are called work activities centers where the emphasis is on care and therapy rather than production, and the earnings are very low. This group of workers may account for an even larger proportion of the total workshop population in the coming years as more of the first category are presented with employment opportunities in the regular business sector.

For many years the sheltered workshop program has been relatively obscure with little attention focused upon it. Applications for certification to pay subminimum wages to handicapped workers in sheltered workshops were routinely approved. The level of attention paid by the Wage and Hour Division was demonstrated by a low priority for investigations. Compliance officers dealing with the special procedures and technical problems involving the sheltered workshop were not afforded the specialized training needed for a comprehensive investigation. The Wage and Hour Division did not have an accurate barometer against which to measure the productivity of the handicapped worker. Consequently, it was only in recent years, as the disabled rights movement gained momentum and visibility, that public attention has focused on sheltered workshops.

Let me tell you briefly what we have been doing in the Department to try to improve the operation of this long slumbering sheltered workshop program. Our first order of business was to strengthen our monitoring of sheltered workshops to assure compliance with the wage requirements of the Fair Labor Standards Act. There has been a disturbingly high incidence of monetary violations found in recent years in the investigations that were actually conducted. In fiscal years 1978 and 1979, our compliance staff found over $900,000 in underpayments in each of those years. In 1979 alone, nearly 5,000 workers were found to be paid in violation of the monetary requirements of the Fair Labor Standards Act. Fifty-seven percent of the workshops investigated in fiscal year 1979 were found in violation of the monetary requirements of the act.

To strengthen our monitoring program, we have doubled, from 5 percent to 10 percent, the number of investigations of sheltered workshops to be conducted in fiscal year 1980. The percentage of investigations is roughly four times as high for workshops as it is for the universe of establishments covered by the Fair Labor Standards Act. We have also taken steps to improve the quality of these investigations by developing an intensive formal training program for all compliance officers. This program covers such areas as work measurement, contract bidding, performance evaluation, job layout, and prevailing rates.

In addition, we have developed, in consultation with recognized time and motion study experts, a special work measurement course for our regional sheltered workshop specialists and some 100 compliance officers designated throughout the country to conduct sheltered workshop investigations. The main objective of the training is to provide our compliance officers with an accurate yardstick against which to measure the productivity of the handicapped.

We are revising the procedural instruction to our staff to more fully meet the needs of compliance officers responsible for conducting investigations. These instructions will be in the hands of our compliance officers very soon.

In addition to strengthening our investigative program, we have taken a number of steps to improve internal processing procedures of renewal applications for authorization to pay special subminimum wage rates. We hope to automate several of the more routine clerical duties to free the sheltered workshop certification staff so they can concentrate on the analysis of the more substantive aspects of the application.

We have opened effective communication channels with organizations representing sheltered workshop workers. We meet with workers' organizations to inform them of significant changes in the administration of the sheltered workshop program. These meetings serve as a forum for consumer organizations to communicate their concerns, identify problems, and make suggestions to improve the administration of the sheltered workshop program.

The Department recognizes that it is in the vital interest of the handicapped workers that the sheltered workshops in which they work are well managed. With this in mind, the Department has expanded its technical assistance program to provide information on the management of sheltered workshops. We are also nearing completion of an easy-to-use manual which should provide them with all the essential information needed to comply with the present law. This should help to allay the complaints that the complexity of the FLSA's requirements has significantly contributed to unintentional violations of the act.

Mr. Chairman, we believe that for the first time the sheltered workshop program is receiving the type of attention that a program of its importance warrants. Our field staff understands that the sheltered workshop certification process requires more than processing an application; it requires substantial analysis. We also plan to expand our role in the mainstreaming of employees. Toward that goal, we are exploring possible linkages between the sheltered workshop programs and the section 503 program under the Rehabilitation Act of 1973 for which the Department is also responsible. Section 503 requires that government contractors take affirmative action to employ and advance in employment qualified handicapped individuals.

Mr. Chairman, next year the United States will be an active participant in the international year of the disabled. It will be important that we demonstrate the viability of our many programs to assist the disabled and I am confident that our improved sheltered workshop monitoring activity will certainly help to achieve that result.

We would be happy to answer any questions that you or the members of the subcommittee may have.

Mr. **Beard.** Thank you very much, Mr. Secretary.

You know, the idea of sheltered workshops on the surface sounds great, but in some cases they could become an albatross around the necks of the handicapped if they are holding people down and not allowing them, in a sense, to enter the normal workplace.

Can you do what this bill seeks to do through Department of Labor regulations where that certificate would not be so broad and would allow people that are working in these sheltered workshops to receive what they should receive?

Mr. **Elisburg.** There is presently pending before me a petition on whether we could do what this particular bill requests by regulation.

That decision has not been issued yet, and certainly that is a possibility, but I think that there are some questions about whether that is indeed authorized by the statute.

I think, if you look at what this kind of legislation is trying to get at, there may be various ways in which you can deal with it, legislation being only one. It is part of our view at the Department that, if we are properly running this workshop program, if we are carefully looking at these applications and the standards against which individuals are measured, those people with disabilities who are in these workshops should not be impeded in their productivity. The blind are certainly a large number of those workers and ought not to be approved at less than the minimum wage anyway.

I think that is something that was perhaps not made clear in Congresswoman Schroeder's testimony. While a certificate issued to a workshop may set a group minimum wage, each worker must be paid on the basis of his or her individual productivity as it compares with nonhandicapped productivity; if that yields a higher wage than the minimum set in the certificate, they the worker must be paid at the higher rate.

Mr. Beard. What steps are being taken right now by your Department to assure that, if someone is working in a sheltered workshop and has the ability to do a job, that person will get a minimum wage and not be lumped into the rest?

Mr. Elisburg. We have taken a series of steps to develop better work measurements. Perhaps Mr. Herb Cohen may comment for a second.

Mr. Cohen. Our focus and thrust is on doing a better job of enforcing the law as it stands. We think the key provisions here are the commensurate wage and the prevailing wage provisions. We feel that if we can do a better job in seeing that each handicapped worker is indeed being paid commensurate wages in accordance with his or her productivity, many of the objectives voiced this morning will be met. We are providing more skilled training for our compliance officers to go in and do time and motion studies to test the validity of the rates established by the workshops. This will insure that the rate does indeed reflect the productivity of that worker since it will be done on a worker-by-worker basis.

The other half of that equation is relating that individual's productivity to the prevailing minimum wage in the vicinity for like or similar work. We are looking at that issue and trying to improve the process by which that prevailing wage is determined. As it stands now, the workshops are required to obtain the best information they can in the vicinity as to what the prevailing wage is.

Mr. Beard. The fact of the matter is that this room is packed with people who have a concern that many have been taken over the coals around the country, and that is why this legislation is before the committee, even though existing law states that if someone can do the work, whether in a workshop or anywhere else, on the same par with everyone else, he should get paid the minimum wage. That is what I am saying.

What can we do? How can we tell these people: Look, if you are out there and you work just as well as the next person that has sight, you are going to get minimum wage; what guarantees can you give them?

Mr. Elisburg. It is hard to give anyone a total guarantee, but we have stepped up our investigations. We are very responsive to complaints. We have been meeting not only with the employee groups, but we have been meeting with the sheltered workshop organizations themselves. I have personally made it very clear to those who represent these organizations that they have got to help clean up their own house.

For a long period of time in this country, the only employment opportunity for handicapped people has probably been in the workshops. Now that process is changing and I think that the workshops have to understand that to the extent there has been exploitation, it should never have been allowed. We are simply not going to allow it in the future. If we are not successful by stepping up our investigations to four times the normal number, we will have to schedule even more investigations. I must say that we have found a substantial willingness on the part of the sheltered workshop organizations themselves to learn something from this experience as well and to make some efforts to do the right thing.

Mr. Beard. Mr. Erlenborn?

Mr. Erlenborn. Thank you, Mr. Chairman.

Mr. Secretary, let me welcome you back. I was just commenting to counsel I wondered if this was another ship whose course was being changed. He suggested maybe it was taking on water instead.

To get serious for a moment, I understand there are about 4,000 workshops in the United States; right?

Mr. Elisburg. Yes.

Mr. Erlenborn. According to the information we have, 155 of them were visited last year, or 2 years ago.

Mr. Elisburg. That may have been about 2 years ago. I think it was higher last year, and we expect to visit about 400 of them or more this year.

Mr. Erlenborn. You do have, I presume, from these facts and figures, a problem of having sufficient manpower to make the number of onsite investigations that might be necessary to help alleviate some of these complaints.

Mr. Elisburg. I think it is not atypical of the problems we have under this kind of a labor standards law. There is far more business out there than we can handle.

Mr. Erlenborn. That is true with OSHA and true with many of these laws.

Mr. Elisburg. I think what I stated in my oral statement is relevant here. It was not a very high priority issue with the Department until, obviously, this thing began to bubble up in the last couple of years. Not only were there not a large number of investigations, but I think the quality of the investigations left a lot to be desired because our compliance staff was kind of doing a paper check and not really understanding what they were about. I think that process has changed, and we hope, with this more careful enforcement and targeting, we will be able to achieve a better level of compliance with better investigations.

Mr. Erlenborn. The sponsors of this legislation would have us believe that handicapped persons whose handicap consists of impair-

pages tightly bound

ment of vision, who are as productive as nonhandicapped, are being discriminated against by being paid subminimum wages. Would you not agree that the law currently on the books does not allow a subminimum for one who is as fully productive as a nonhandicapped?

Mr. ELISBURG. I agree on those facts; yes, sir.

Mr. ERLENBORN. So if there is a problem, it is not the law that is wrong; it is in the enforcement. I don't mean this as personal criticism. As I pointed out, you don't have the wherewithal to get into every workshop every day. That takes time and motion studies; but the law is not deficient in this regard.

Mr. ELISBURG. I think that the way you put it, certainly the law is not deficient in that regard. Obviously, there is a view that there are some kinds of disabilities, impaired sight being one of them, where the track record with the private employment sector indicates that there are so many opportunities, when they are made available to the blind, that people can work productively, that it is hard to suggest that it is the kind of disability that ought to be treated by the sheltered workshop system. I suspect there may be several other disabilities as well. That brings us back to the point I was making about the movement of people with disabilities into the mainstream of industry, which has been an entirely different process than we have known before. It is going to bring about change all by itself.

Mr. ERLENBORN. Would you agree that the philosophy expressed in the law and also in its implementation is that the subminimum wage be certified only in those instances where someone could be employed who otherwise would not be employed?

Mr. ELISBURG. I think that is indeed the philosophy behind the law.

Mr. ERLENBORN. So it is a philosophy of creating opportunities for people rather than trying to take advantage of them.

Mr. ELISBURG. Yes, sir.

Mr. ERLENBORN. I noted in my conversation with Mrs. Schroeder that the bill that was introduced, and I think cosponsored by her but introduced by Phil Burton, would for the blind prohibit the issuance of any of these certificates without distinguishing between work activity centers and sheltered workshops. In your opinion, if this bill were passed in its present form, would it destroy opportunities for people to be engaged in activities in work activity centers?

Mr. ELISBURG. We, of course, have not taken a position on the legislation. I think, however, from a strict reading of the way it is currently drafted, that it would be helpful if there was some understanding that there are work activities centers and that might require special treatment. On the other hand, I think it is also important that another point made, one that was made earlier today—one of the concerns that we have in dealing with the issues presented, as it were, by the petition before the Department which is, I think, also an issue within this bill—is the problem of individuals with a multiple handicap and multiple disability, as it were, that may in fact be worthy of fitting either a sheltered workshop setting process or a work activities center. On the other hand, I think that the comment has been made, certainly by the petitioners before us, that frequently the excuse of multiple handicap has been a second disability that is not a disability at all, or not one that would impair the productivity. Thus, one has to be very careful that the multiple handicapped is not used as a subterfuge.

Mr. **Erlenborn**. Thank you very much, Mr. Secretary.

Thank you, Mr. Chairman.

Mr. **Beard**. Thank you, gentlemen.

Our next witness will be Charles Fletcher, Executive Director of the Committee for Purchase from the Blind and Other Severely Handicapped.

[The prepared statement of Charles W. Fletcher follows:]

PREPARED STATEMENT OF CHARLES W. FLETCHER, EXECUTIVE DIRECTOR, COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Mr. Chairman, I am pleased to appear here today to provide information on the activities of the Committee for Purchase from the Blind and Other Severely Handicapped and to address the application of Section 14(c) of the Fair Labor Standards Act on the Committee's program.

The Committee was established by Public Law 92-28, dated June 23, 1971. It is the successor to the Committee on Purchases of Blind-Made Products, which was created by the Wagner-O'Day Act of 1938. The Committee's purpose is to increase the employment opportunities for individuals who are blind or otherwise severely handicapped, and whenever possible, to prepare them to engage in normal competitive employment. Under the Act, the Committee has the responsibility for determining which products and services are suitable for provision to the Government by qualified workshops serving the blind and other severely handicapped, and for establishing the price which the Government will pay for those commodities and services. When the Committee determines that a commodity or service is suitable, it is added to the Procurement List published by the Committee and all entities of the Government are required to procure the item from the designated workshop.

The 15 members on the Committee are appointed by the President. Eleven members represent various Government agencies and four are private citizens who are conversant with the problems in employing the blind and other severely handicapped.

Prior to the enactment of Public Law 92-28, the Congress held hearings on various proposals to amend the Wagner-O'Day Act of 1938. In May 1971, the Government Operations Committee of the House of Representatives issued House Report No. 92-228. This report makes it clear that the Congress intended that as many of the Government's procurement requirements as possible should be satisfied by workshops for the blind and other severely handicapped and that workshops employing the blind and other severely handicapped would be afforded "preferential treatment in Government contracting," in order to provide employment and rehabilitation opportunities for such persons. In this report, Congress gives the Committee the mandate "to be an active force within the Government in attempting to aid in the sale of products and services by blind and other severely handicapped persons to the Federal Government" and "to expand the number of products and services on the priority procurement list."

In November 1973, the House Government Operations Committee held additional hearings on the Committee's program. As a result of those hearings, the Committee issued House Report No. 93-1315, entitled "Operations of the Wagner-O'Day Act". The most significant theme of this report was the "disappointing growth" in extending the benefits of the Committee's program to the non-blind workshops. One of the recommendations of the report was that the "Committee should expand its work with Federal procurement officials, with particular emphasis on enlisting the support of major procurement agency heads," in finding additional commodities and services which could be produced by blind and other severely handicapped workshops for the Federal Government.

I recommend these two reports to your Committee. They contain a great deal of information on the role of sheltered workshops in assisting blind and other severely handicapped individuals to develop their maximum potential as useful, contributing members of society. They also show the actions that Congress intended our Committee should take in support of this effort.

In determining that a commodity or service procured by the Government is suitable for provision by a blind or other severely handicapped workshop, the Committee considers not only the capability of the workshop to produce the commodity or provide the service, but also the impact on current or recent contractors to the Government.

In this regard, the Committee has established in regulations the following criteria for evaluating proposed additions to the Procurement List:

a. A qualified workshop must be capable of producing the commodity or providing the service at a fair market price.

b. The addition of the commodity or service to the Procurement List would not have a serious adverse impact on the current or most recent contractor for the commodity or service.

The Committee has designated two national agencies as central nonprofit agencies to facilitate the distribution of Government orders among the various workshops and to assist the Committee in the administration of the Act. These are the National Industries for the Blind (NIB), representing blind workshops, and the National Industries for the Severely Handicapped (NISH), representing other severely handicapped workshops.

To qualify to participate under the Act, a workshop must meet the criteria set forth in the Act and the Committee's Regulations as a nonprofit agency serving the blind or other severely handicapped. The Committee requires the appropriate central nonprofit agency to insure that a workshop desiring to produce a commodity or provide a service under the Act will have the capability to meet the Government's quality standards and delivery schedules by the time it assumes responsibility for supplying the Government under this program. Additionally, prior to taking action to add an item to the Procurement List, the Committee usually requests the procuring activity to conduct an on-site inspection of the workshop to confirm that the workshop will be able to provide the item in accordance with the Government's requirements.

At least 30 days prior to the Committee's consideration of the addition of an item to the Procurement List, the Committee publishes a notice in the Federal Register announcing the proposed addition and provides interested persons an opportunity to submit written data, views or arguments to the Committee on the proposed addition.

In deciding whether or not a proposed addition would have a serious impact on the current contractor for the item or items, the Committee gives particular attention to (a) the possible impact on the contractor's sales, including any cumulative impact as the result of recent Committee actions, (b) whether or not the contractor has been a continuous supplier to the Government of the specific item or items proposed for addition and is, therefore, more dependent on the income from such sales to the Government, and (c) any substantive comments received as the result of the notice in the Federal Register. In this connection, each Committee member is furnished a copy of each substantive response received as the result of the notice in the Federal Register and an analysis of the impact on the current or most recent contractor for the item.

Each Committee member considers the particular facts and circumstances in each case in determining if a commodity or service is suitable for addition to the Procurement List. When the Committee determines that a proposed addition to the Procurement List would have a serious impact on the particular company it takes this fact into consideration in deciding what portion, if any, of the Government's procurement of the commodity or service in question, should be added to the Procurement List.

The Committee has established in its regulations the procedures for appealing any of its decisions. Briefly, they are that any interested person may request the Committee to reconsider a decision simply by submitting a written request to the Committee setting forth the facts which he or she considers would justify the Committee's modifying or revising its decision.

The Committee's actions are also subject to review in the Federal Courts. Within the past several years, two of the Committee's actions to add commodities to the Procurement List have been challenged in the Federal Courts. One of those cases was appealed to the United States Court of Appeals. In each case, the courts, after a careful review of the Committee's procedures and actions, upheld the Committee's determination.

The Committee is also required by its Act to determine the "fair market price" of commodities and services on its Procurement List. One of the primary reasons for enacting the original Wagner-O'Day Act in 1938 was to eliminate the cut-throat competition in which blind workshops were engaged in their efforts to sell brooms and mops to the Government in order to provide work for their blind employees. The Committee has interpreted a fair market price to be one which is representative of the reasonable prices offered in the market place. It is neither the lowest nor the highest price offered.

The Committee considers that when a commodity or service has been previously procured by the Government, the bids on the last solicitation are the best measure of the "market" for that particular commodity or service. Current Committee procedures provide that the fair market price is generally the median, or middle, of the competitive bids submitted on the last solicitation for the commodity or service.

Where the commodity or service has not been previously procured by the Government, other factors are considered, such as: the price paid by the Government for similar commodities or services; the price of similar commercial items; and the cost to the workshop to produce the commodity or to perform the service.

Before the Committee publishes an approved price, the agency or agencies with procurement responsibility for the particular commodity or service review the price to insure that it is consistent with current market prices for the item.

In application, the fair market price in most cases represents a price only slightly higher than the lowest price for which the commodity or service can be procured on the open market. Thus, the workshop must be able to produce a commodity or provide a service on the Procurement List at a price which is generally competitive with the market price for the commodity or service.

The central nonprofit agencies report that in a number of instances, items which otherwise appear to be suitable as proposed additions to the Procurement List were never presented to the Committee because of a workshop's inability to produce the item at a fair market price. A signficiant element of the workshop's cost for most items is the cost of the direct labor involved.

Currently Section 14(c) of the Fair Labor Standards Act provides for certification of sheltered workshops to pay wages which are lower than the minimum wage. Subject to certification by the Department of Labor, workshops are able to pay their blind and handicapped workers in acordance with their productive capability. This permits workshops participating in the Committee's program to maintain direct labor costs which are generally competitive with the direct labor costs for commercial industry. However, this certification does not take into consideration such added costs as those for establishing additional work stations for, and increased supervision of, its partially productive blind or other severely handicapped workers. These added costs must be absorbed by the workshop.

Thank you.

Public Law 92-28 defines the terms "blind" and "other severely handicapped". The Committee has established additional criteria in its regulations in implementing the law. These regulations require an initial evaluation of each blind or severely handicapped individual's capability for employment in the competitive labor market, periodic evaluations of such capability at least annually, and on ongoing program for the placement outside the workshop of those blind or severely handicapped individuals whose evaluations indicate they are capable of competitive employment. These help to insure that the blind and other severely handicapped employees in the workshops participating in the Committee's program are those who have the greatest need for the assistance provided by sheltered workshops.

Amendments to Section 14(c) of the Fair Labor Standards Act which would modify or eliminate the authority to pay blind or other severely handicapped workers in proportion to their lower productivity could have a serious, adverse impact on the ability of many blind and other severely handicapped workshops to participate in the Committee's program. Those few workshops which are currently paying at least the minimum wage would not be affected. However, these represent a very small minority of the some 190 workshops which are now authorized to produce a commodity or provide a service on the Procurement List. The vast majority of the workshops would be confronted with substantially increased labor costs which they would be unable to absorb. Many would be unable to continue to participate in the Committee's program and would be forced to close. Those that remained in the program would have to seek subsidies from outside sources, such as the States or the Federal Government, or to limit employment to those blind and handicapped with the highest productivity. Adopting this latter alternative would be contrary to the thrust of the Rehabilitation Act of 1973, and its subsequent amendments, which gives priority for providing vocational rehabilitation services to "those individuals with the most severe handicaps".

While certain changes in Section 14(c) may appear to benefit a particular group, we trust your Committee will give careful consideration to the impact on all the various blind and severely handicapped individuals this legislation currently benefits. Any changes should be made with the objective of expanding the opportunity for those less fortunate of our society who are severely handicapped to be able to work and to earn in accordance with their capabilities.

Thank you.

STATEMENT OF CHARLES W. FLETCHER, EXECUTIVE DIRECTOR, COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Mr. **Fletcher.** Mr. Chairman, I am pleased to appear here today to provide information on the activities of the Committee for Purchase from the Blind and other Severely Handicapped and to address the application of section 14(c) of the Fair Labor Standards Act on the committee's program.

The committee was established in June 1971 by the Javits-Wagner-O'Day Act. It is the successor to the Committee on Purchases of Blind-made Products, which was created by the Wagner-O'Day Act of 1938. The committee's purpose is to increase the employment opportunities for individuals who are blind or otherwise severely handicapped, and whenever possible, to prepare them to engage in normal competitive employment. The committee has the responsibility for determining which products and services are suitable for provision to the Government by qualified workshops serving the blind and other severely handicapped, and for establishing the price which the Government will pay for those commodities and services.

In determining if a commodity or service procured by the Government is suitable for provision by a blind or other severely handicapped workshop, the committee considers not only the capability of the workshop to produce the commodity or provide the service, but also the impact on current or recent contractors to the Government.

In this regard, the committee has established in regulations the following criteria for evaluating the proposed additions to the procurement list:

A. A qualified workshop must be capable of producing the commodity or providing the service at a fair market price.

B. The addition of the commodity or service to the procurement list would not have a serious adverse impact on the current or most recent contractor for the commodity or service.

The committee has designated two national agencies as central nonprofit agencies to facilitate the distribution of Government orders among the various workshops and to assist the committee in the administration of the act. These are the National Industries for the Blind [NIB], representing blind workshops, and the National Industries for the Severely Handicapped [NISH], representing other severely handicapped workshops.

The value of sales by workshops to the Government under the committee's program during fiscal year 1979 was $84 million. As of May 1, 1980, the committee had authorized 188 workshops to produce commodities or provide services to the Government under this program.

Under the Javits-Wagner-O'Day Act the committee is responsible only for those 188 workshops in its program and only for those aspects of those workshops' operations covered by that act. The Department of Education has responsibility for the rehabilitation function in those workshops. Similarly, the wages paid and the working conditions in those workshops are the responsibility of he Department of Labor. We are and will continue to work closely with the Departments of Labor and Education, as well as other agencies of the Government, with respect to those problems that we observe in the workshops under our program which fall within the areas of responsibilities in those departments or agencies.

In January 1979 the Wall Street Journal published two articles concerning conditions in blind workshops. During hearings on our fiscal year 1980 budget request before the House Appropriations Committee, we were asked to prepare a report on the operations of workshops with emphasis on what is being done by the various governmental agencies to insure that blind and other severely handicapped persons employed in workshops are receiving proper pay and treatment.

We have made copies of that report, entitled "Workshop Operations," available to your subcommittee. Although the report was prepared in April 1979, the information it contains is still valid. I recommend that it be made a part of the record of these hearings.

In application, the fair market price for items on the committee's procurement list in most cases represents a price only slightly higher than the lowest price for which the commodity or service can be procured on the open market. Thus, the workshop must be able to produce a commodity or provide a service on the procurement list at a price which is generally competitive with the market price for the commodity or service.

Currently section 14(c) of the Fair Labor Standards Act provides for certification of sheltered workshops to pay wages which are lower than the minimum wage in accordance with the individual's productive capability. This permits workshops participating in the committee's program to maintain direct labor costs which are generally competitive with the direct labor costs for commercial industry. However, the DOL certification does not take into consideration such added costs as those for establishing additional work stations for, and increased supervision of, its partially productive blind or other severely handicapped workers. These added costs must be absorbed by the workshop.

To eliminate the authority to pay blind or other severely handicapped workers in proportion to their lower productivity without providing for other compensation could have a serious, adverse impact on the ability of many blind and other severely handicapped workshops to participate in the committee's program. Those few workshops which are currently paying at least the minimum wage would not be affected. However, these represent a very small minority of the some 188 workshops which are now authorized to produce a commodity or provide a service on the procurement list.

The vast majority of the workshops would be confronted with substantially increased labor costs which they would be unable to absorb. Many would be unable to continue to participate in the committee's program and would be forced to close. Those that remained in the program would have to seek subsidies from outside sources, such as the States or the Federal Government, or to limit employment to those blind and handicapped with the highest productivity. Adopting this latter alternative would be contrary to the thrust of the Rehabilitation Act of 1973, and its subsequent amendments, which gives priority for providing vocational rehabilitation services to "those individuals with the most severe handicaps."

While certain changes in section 14(c) may appear to benefit a particular group, we trust your committee will give careful consideration to the impact on all the various blind and other severely handicapped individuals this legislation currently benefits. Any changes should be made with the objective of expanding the opportunity for those less fortunate of our society who are severely handicapped to be able to work and to earn in accordance with their capabilities.

Mr. **Beard.** What about the priority of the Government as far as purchasing goes?

Mr. **Fletcher.** When the committee approves a product or service for addition to its procurement list, then all Federal agencies are required to procure that product or service from the designated workshop. It takes priority over the small business set-asides or any other program.

Mr. **Beard.** Do, for example, prison industries, get preference?

Mr. **Fletcher.** Basically priorities are set up under our act and the act covering the Federal prison industries. For commodities Federal prison industries has priority over the blind. The blind have priority over the other severely handicapped for commodities. With respect to services, our program has priority over Federal prison industries and within the program there is no priority between the blind and other severely handicapped. However, as a practical matter, over 90 percent of the services are performed by severely handicapped workshops rather than blind workshops because the blind cannot be taken to the worksite. Examples are janitorial and grounds maintenance and that sort of thing.

Mr. **Beard.** In the workshops are they doing any defense work at all?

Mr. **Fletcher.** We are producing items for the Defense Logistics Agency such as the various equipage, camouflage helmet covers, those sorts of things.

Mr. **Beard.** What other items?

Mr. **Fletcher.** We have a variety of products ranging from bayonet covers to mattresses to pillowcases to paper clips to ballpoint pens. The little black ballpoint pens are produced by the blind and a portion of the paper pads. We have only taken a portion of the pads because of the potential impact on small business concerns who are now in that business. I could give a list of these for the record if you wish.

Mr. **Beard.** All right.

[The material referred to above appears in the appendix.]

Mr. **Beard.** So, when the Government gives out a contract, whether it is for a helmet liner or a paper clip or a pad or whatever, it gives out contracts to the lowest bidder, is that correct?

Mr. **Fletcher.** That is the normal procurement system but once an item is added to the procurement list, the Government agency no longer goes out on a solicitation, it simply places the order with the workshop we have designated at the price established by the committee.

Mr. **Beard.** Because the workshop is the way to produce the product at the cheapest possible price for the Government?

Mr. **Fletcher.** Our law says that the workshop shall be provided a fair market price. In other words, the background on this, going back to the legislative history of it, was that the Wagner-O'Day Act of 1938 was enacted because blind workshops were competing with each other and producing brooms and mops for the Government at a price substantially below the fair market price and as a result were not paying their blind workers an adequate wage. The fair market price provisions were enacted at that time and the implementing procedures have been developed overtime. They basically require that the price must be competitive with that which you could buy the item commercially.

Mr. BEARD. What is your opinion of the quality of work that the blind perform in these workshops?

Mr. FLETCHER. By and large we receive congratulations from the procuring activities as to the quality of the work throughout, not only on commodities but also in the performance of services as well.

Mr. BEARD. But on the other hand, they are not necessarily paid the minimum wage for what is credited as being quality work.

Mr. FLETCHER. Many of them are paid the minimum wage.

Mr. BEARD. But many are not.

Mr FLETCHER That rests with the Department of Labor to see that they are paid in accordance with their productivity.

Mr. BEARD. I understand that you are an ex-general?

Mr. FLETCHER. Yes.

Mr. BEARD So you know a little bit about the military.

Mr. FLETCHER. I used to. [Laughter.]

Mr. BEARD. Well, you might have a point there, too. The quality of the work that is being produced by the blind for the Government is up, but there is a problem that some of these competent people that produce it are not getting paid for it properly, and that is what this is all about today.

Mr. FLETCHER. We follow up on this from the standpoint that in price changes under our program where they are based on workshop costs, the workshop must tell us the average wage rate which they used as a basis for determining the wage for their blind and handicapped persons. If it appears to us that rate that they are using as the basis for costing is unusually low or does not meet what would appear to a reasonable person to be a proper wage in that locality, we challenge it and I send it to the Department of Labor, to the gentlemen you saw at the table ahead of me, and ask them to investigate to insure that the wages are correct. So we do have a check on this and we do this routinely wherever it appears that the wages which the workshop is reflecting are unusually low.

Mr. BEARD. Thank you very much.

Mr. Stephens, the minority legal staff counsel, will now ask questions. We are going to try to keep it to the 5 minute rule if possible.

Mr. STEPHENS. Thank you, Mr. Chairman.

Mr. Fletcher, I would like a little clarification on your followup procedures. Once you put a product or a commodity on the list and once you identify or put a particular workshop on the list of 190 workshops, what do you do after that initial step in the way of follow up to make sure that these workshops are paying their workers fairly and in accordance with their productivity?

Mr. FLETCHER. As far as follow up is concerned on paying workers, only if we were aware of a case where a workshop was not paying properly, would we then report it to the Department of Labor. I have no authority within my act to enforce that aspect of the law. That, by law, is established under section 14(c) and is the responsibility of the Secretary of Labor. On the other hand, before the workshop ever comes into our program it must meet certain requirements under our law. They must employ blind or other severely handicapped for 75 percent of their direct labor, they must meet the standards of OSHA, and they must be a nonprofit agency organized under the laws of the State in which they are located. If they meet those requirements, they then qualify to enter our program.

As I indicated in my statement, we coordinate with the Department of Labor. Mr. Cohen who appeared with Secretary Elisburg is a member of the committee and so I deal with him and with his staff on questionable areas as we go around to visit the workshops. After the item is added to the workshop, one of my two industrial engineers usually visits the workshop within the first 6 months after it is added and we try to visit them every 2 years thereafter. We plan to make visits to 75 workshops this year which means we will hit about 40 percent of them.

Mr. STEPHENS. What do the engineers do in those workshops?

Mr. FLETCHER. Primarily they assure that the workshops comply with our regulations. For example, getting to a point which was raised earlier, our regulations require that every blind or other severely handicapped individual in a workshop must have had an initial evaluation when they came in and they must be reevaluated to determine their capability or their incapability for competitive employment. The workshop must have an ongoing placement program, an active program to move out to competitive employment those blind and handicapped individuals whose productivity permits it. We follow up to insure that those programs are in place and are being operated effectively.

Mr. STEPHENS. Where you find instances of a potential violation of the Fair Labor Standards Act, does your statutory authority give you power to strike that workshop from the list or take any sort of sanction against them and, if so, have you ever done it?

Mr. FLETCHER. We have never done it. The only workshops we have stricken were those that failed to meet the requirements of our act. The Department of Labor has its own enforcement procedures with regard to workshops. If the Secretary of Labor came to us and asked us to delegate a workshop, I am sure the committee would act on it.

Mr. STEPHENS. Just one more question. Do you have any handicapped people on your committee?

Mr. FLETCHER. Yes. The committee is appointed by the President. Eleven members are representatives of Government departments and agencies, four are private citizen members. Traditionally, two of them have been handicapped, one blind and one physically handicapped. The blind position is now vacant but I understand that a blind person's name has been proposed to fill that position.

Mr. STEPHENS. Thank you. I have no further questions.

Mr. Beard. Thank you very much. We appreciate your testimony.

Dr. Kenneth Jernigan, president of the National Federation of the Blind. [Applause.]

Mr. Sanders, would you join the doctor?

I would like to have an individual from my own State of Rhode Island, Mr. Ed Becker, added to the list. It would not be right, not having someone from Rhode Island, since I am the chairman.

I am in the second year of this chairmanship and this is the largest turnout we have had, with possible exception of when we had Howard Cosell here on the boxing bill.

[The prepared statement of Dr. Kenneth Jernigan follows:]

STATEMENT OF KENNETH JERNIGAN, PRESIDENT, NATIONAL FEDERATION OF THE BLIND

Mr. Chairman, my name is Kenneth Jernigan; I am President of the National Federation of the Blind. My address is 1800 Johnson Street, Baltimore, Maryland 21230.

I am testifying this morning to support the proposition that the Fair Labor Standards Act (FLSA) should be changed so that blind people working for employers (including sheltered workshops) who are subject to the Act will not be paid less than the federal minimum wage. The exemption authorized by Section 14(c) is no longer (if it ever was at all) justified. The law unfairly discriminates by setting up a class of workers who are blind or handicapped and then forcing the members of this class to justify every penny of their paychecks by means of productivity ratings while working under conditions and with equipment over which they have no control. By contrast, a minimum hourly wage (required under Section 6 of the Act) provides a modest level of protection for workers who are not part of this class, and this wage is available to these workers as a matter of right. The present law breeds exploitation, and there are plenty examples of abuse. This will be my testimony, but first some preliminary and relevant remarks.

I come before you as a representative of blind people, elected by blind people. The National Federation of the Blind is the vehicle for collective decision making by the blind, and through the Federation we are able to establish policy and to speak for ourselves. The agencies which serve the blind and the workshops which employ the blind have often assumed the status of self-appointed spokesman for the blind, so you should be alert to the distinction between the blind themselves on the one hand and the agencies or workshops on the other. Let there be no confusion between the respective positions of labor and management, for no matter how much management (that is, the agencies and the workshops) says it knows about our abilities, we know best our strengths and our limits -- we know what it is to be blind, and we know how to compete when we are given a fair chance to do so.

Our first-hand experience as blind people who work successfully in virtually all professions, trades, and callings tells us a great deal about blindness and its effect (or lack of effect) on productivity in the labor force, but also many of us have had substantial experience with management. For example, I directed all of the adult programs for blind persons in the State of Iowa for 20 years, from 1958 to 1978. I know something, therefore, about how you rehabilitate blind people, what the problems are, the potentials, and the pitfalls in program and philosophy. Without wanting to sound boastful, I would say that the placement record (moving individuals into competitive employment) was among the best, nationwide, with the emphasis on opening new careers never thought possible for the blind. We received a citation from the President of the United States, but most important, the Iowa experience is a ringing declaration that the old myths and misconceptions about the helpless and incompetent blind are no longer to be accepted in modern society, even though they are still found in many, if not most, of the well-established and well-funded institutions.

Among the most monstrous misconceptions every perpetrated upon the blind is the myth of diminished productivity. This myth is the basis for the FLSA exemption, but it is also a principal tenet of an elaborate network of agencies, societies, and associations (even the so-called "lighthouses") which purport to help the blind while paying them the lowest possible wages. Many of these institutions operate under the guise of public charity, raising millions upon millions of dollars, and all for the benefit of the blind, or so we are told by their representatives. This network of intertwining organizations and charities is not a small-time operation. Using data from Internal Revenue Service reports and other documents which are publicly available we estimate reliably that the aggregrate financial holdings of these institutions approaches 1/2 billion dollars; yet last year (the fiscal year ending September 30, 1979) the average blind worker performing direct labor in workshops affiliated with National Industries for the Blind (NIB) was paid a meager $5,504. At the same time, according to a 1979 report released by the U.S. Department of Labor half of the blind workers in sheltered workshops are actually earning less than $1,500 annually.

Now there are blind people and leaders among the blind who have come forward to challenge the premises and practices of several decades. It is never easy to reform an institutionalized system, especially when those in positions of power in the system perceive that matters of money and prestige are at stake. Even so, we have decided to come forward to raise legitimate questions and to work for more equitable arrangements on behalf of all blind people, no matter the personal price to be paid. I would like to say that the times are exciting, but this is not exactly the most appropriate or complete description of my thoughts.

As the principal leader of the organized blind movement in this country, I think I know something of how our nation's foremost civil rights advocates have suffered by means of pressure and attempts at intimidation whenever they have zeroed in on the age-old problems of minorities. I have learned first-hand, for instance, about how vicious and unfounded personal attacks can be used against those who dare to be outspoken. In my own case I have weathered many of these attacks, and I fully expect that there are many more to come. This hearing will, itself, call forth another volley of abuse. Even a few days ago (in fact, on May 3 in San Diego, California, at a meeting sponsored by National Industries for the Blind, to be exact) I am informed that threats were leveled at me by Joseph Larkin (Executive Director of the Industrial Home for the Blind and Chairman of the General Council of Workshops for the Blind) and Austin Scott (Executive Director of the Dallas County Association for the Blind and a member of the Executive Committee of the General Council). These are people of power and influence in the workshop system; they direct wealthy agencies, and their counterparts who manage workshops throughout the country will tend to follow their lead.

Ralph Sanders, President of Blind Industries and Services of Maryland, has reported to me that, at the meeting in question, Messrs. Larkin and Scott spoke directly to him in tones of hatred, angrily denouncing me and my activities as President of the National Federation of the Blind. According to their statements, Messrs. Larkin and Scott (presumably with the cooperation and assistance of the heads of several other agencies) intend (and I emphasize, as Mr. Larkin did, the word "intend") to see to it that I am ruined both personally and professionally within the next two years. There was, as I gather it, no equivocation whatsoever about the objective or the time table. The plan is ready to go and most likely already underway. For one thing, Mr. Larkin disclosed that an effort is being made to discredit me and the National Federation of the Blind with officials of the State of New York in order to prevent our organization from conducting lawful and legitimate fund-raising activities within the borders of that State. Other attacks will be leveled in the form of adverse publicity concerning me and our movement. I assume that charges will be made that I stole money or was in some other fashion a crook during the time that I directed the State programs in Iowa. This would not be the first time that we have heard such charges, but they are as false and malicious today as the first-time they were leveled. The recent Federal audit of the Iowa programs proves the truth of what I am saying conclusively. Beyond this, I have no way of predicting the full dimensions of the smear campaign which Messers. Larkin and Scott, along with their colleagues in the workshops, have vowed they will commence. Mr. Sanders will be testifying later in this hearing, and he can verify what was said to him.

This is but one incident, although I do not regard it as minor. If it reveals nothing else, it shows the character and hidden purpose of the principal leaders who want to keep things as they have always been in the workshops where they are thoroughly accustomed to dominating the blind, regardless of our constitutionally guaranteed right to free speech and our freedom to assemble and peaceably bring grievances before the agencies of government and the Congress. I do not doubt for one minute that plans are afoot to ruin me personally and to destroy our movement as a viable force on behalf of equal rights of the blind. My associates in the Federation and I have been told independently by two lawyers here in Washington that each was approached by sources representing the interests of the workshops and asked to carry out a campaign of lobbying and quite possibly litigation against me personally. According to these gentlemen the effort was apparently being speared-headed by a so-called accrediting group based in New York City. This organization, the National Accreditation Council for Agencies Serving the Blind and Visually Handicapped (NAC), approves shops which pay the lowest wages, have the most distressed working conditions, and refuse to allow collective bargaining. Under the circumstances both gentlemen said that they declined the offers which were made to them individually and separately, and both reported the incidents to us.

Of course, it isn't pleasant for me personally to be the subject of so much attention, although I believe I am fully capable of defending myself and our movement, but the greater significance rests with the implications for all blind people and particularly those who must work everyday in the workshops. If threats, pressures, intimidation, or maybe even attempts at outright personal and financial ruin can be used to try to "bring me into line," and "to cause me to behave," consider what it must be like for the blind people who are in the most vulnerable spots, for they depend on their meager earnings in the workshops just to feed and clothe themselves and to try to share in supporting their own families. I speak from my own experience; there is nothing more cruel than to be stripped of personal independence and even the will to speak. I know people who wanted desperately to come just to observe this hearing today, but they did not come, and they are not here because they were afraid that someone would see them and report back as to their whereabouts. Other workers told me they want to testify before a committee and to tell of their own experiences, but not in public, only in secret; they were afraid of the consequences otherwise. I tell you there is fear in the workshops, real fear, for management holds all of the cards -- there is no union, no guaranteed wage, no protection whatsoever except the benevolent spirit of the shopkeeper, if that exists at all.

This is not the first time in our history that industrial workers have been subjected to intimidation through overt campaigns designed to put them in their places; in fact, much of our labor legislation has been written to prevent such abuses. The problem is that, despite our full entitlement to the rights of citizens in this country, blind workers still remain a separate class in the labor force, a group presumed to be less productive and, therefore, (or so the reasoning goes) less entitled to the reasonable protections which all other workers are granted under law. It is thought that management of industries which employ blind labor is surely possessed of benevolent spirit — after all, who would actually steal from the blind — but alas the workshop keepers have begun to show their true character and hidden motives. We're not really dealing in charity; let's face it. The rules of the game must now be changed, and there must be a new realization that blind people, regardless of employment by a sheltered workshop, are entitled to certain basic human rights, including a decent wage for a day's work. Mr. Chairman, this is why I am here — to discuss this realization and to consider what must be done to guarantee and to protect these blind workers and their rights.

I note that these proceedings are characterized as over-sight hearings, although there is also before the subcommittee a specific legislative proposal (HR 3764) introduced by Representative Phillip Burton of California. Mr. Burton's bill amends Section 14(c) of the FLSA by removing the Secretary of Labor's authority to permit exemption from the minimum wage in the case of blind or visually-impaired workers. We support HR 3764, and I urge the subcommittee to report it favorably. The minimum wage is the most workable solution to end exploitation of blind workers; it may not be the perfect answer, but it is far better than the arrangements which now exist under present law.

There is a growing body of evidence to show that fallacies, half truths, and downright falsehoods have been used to justify the minimum wage exemption. In the following analysis I will explore these in some detail.

(1) It is said that blind workers on subminimum wages are being rehabilitated, and those who say this leave the intentional implication that the result will be placement in competitive employment. Here are the facts. Rehabilitation and competitive job placement can only be described as secondary, not primary, functions of sheltered workshops, and in most circumstances there is no bona fide rehabilitation effort at all.

Figures released by National Industries for the Blind show the real emphasis of workshops. For example, during the year ending September 30, 1979, only 403 legally blind workers (7.5% of the NIB system work force, which for the same period numbered 5,350) were moved into jobs outside the workshops. We know that many got these jobs on their own initiative; the workshop had nothing to do with it. But here's the interesting comparison — at the same time that only 403 blind people were placed in competitive employment, the workers in the NIB associated shops produced goods and services totaling $127,267,416 in gross sales — $46,237,928 was commercial sales, $7,799,310 in sales to miliary exchanges and commissaries, but the federal government bought the most, with total sales of $63,606,925. The data tells the story — there is very little rehabilitation and a whole lot of business and industrial activity. Among the blind, we call this "work" not rehabilitation.

Recent decisions of the National Labor Relations Board (NLRB) have held that workshops for the blind are substantially engaged in business activity, not rehabilitation. These findings apply specifically to the Cincinnati Association for the Blind and the Lighthouse for the Blind of Houston, but the implications are far more general. Historically, many of the institutions which operate sheltered workshops have covered their business activities with a veil of "social services" which they allege they provide to blind workers and to others. Under this scheme the workshop is described as one of the "services," and the people who work there are called "clients." But the NLRB has now begun to chip away at this facade, and behind it all, the Board has found a roaring amount of business.

In the Houston case the Board took special notice of the scope of industrial activity, reviewing in detail the productive enterprise which is actually underway. For instance, during 1977 the Industrial Division of the Lighthouse manufactured 40,539,744 felt-tipped pens, 250,000 mops, and 300,000 brushes. In addition it produced 145,000 gallons of disinfectant and 30,000 gallons of detergents. Subcontract work included assembling fishing rod holders, performing grease check assembly work, and filling notebook binders with inserts. Commenting on this activity, the Board concluded: "The production figures noted above, including the manufacture of 40 million pens and various other items, indicates to us that, contrary to its assertions, the Employer's substantial production and distribution of items by its Industrial Division attest to the commercial nature of the Employer's operations. Further, it is clear that the Employer endeavors to increase its manufacturing output, broaden its markets, and essentially operates as would a private employer. For these reasons we find no basis for exercising our discretion to decline jurisdiction, but rather conclude that it will effectuate the purposes of the Act to assert jurisdiction over the Employer." Similiar findings were made two years ago with respect to the Cincinnati Association for the Blind, and now both shops (having refused to bargain with their workers in good faith) find themselves the subjects of unfair labor practice charges brought by the Board and pending in Federal courts.

(2) It is said that the productivity base system used under Section 14(c) is fair to workers and that it is more fair than the minimum wage would be. Here are the facts. Measures of speed and performance ratings do not result in a complete or even accurate picture of worker productivity. Exactly how productive a worker or a work force will be depends more specifically on several factors which are exclusively within the hands of management. A few of the more common conditions which have been found to limit productivity in sheltered workshops are: (1) poor job lay-out resulting in a lot of wasted movement and excessive material handling; (2) the lack of appropriate jigs and fixtures -- for example, counting the pieces instead of using a jig or weighing the pieces with a scale; (3) deliberate work-stretching by the workshop during periods when contracts are slow; (4) job designs that do not allow production employees to work to their capacity -- for example, assembly lines slowed down to the lowest common denominator; and (5) boring, repetitive work such as counting plastic forks and spoons. This list is not necessarily complete, but it substantiates the point that productivity is largely dependent on what management does, or conversely, on what management fails to do; hence it is not fair to place the burden solely on production employees who are powerless to control the vagaries of management.

Equally unfair is the establishment of "normal" productivity rates using the prevailing standards for similar work in similar industry as a base. This is not equitable since studies show that sheltered workshop work has little resemblance or parallel to the tasks which can be found commonly in open industry, and even where there are similiarities you will find marked differences in production methods -- for example, sheltered workshops tend to be labor intensive where more mechanized production is used in the competitive labor force. Then, too, workers in sheltered employment are more commonly the victims of small contracts and intermittent work, which means that they are placed at a disadvantage since there is barely time to work out the bugs in the production line before the project is over. These industries are generally not specialized, yet their productivity standards are based on the prevailing rates in plants which are.

(3) It is said that the workshops cannot afford to guarantee blind workers the minimum wage, so many would close, abandoning the blind to walk the streets. Here are the facts. If we accept the figures of NIB, the average hourly wage was $3.24 last year, $.34 per hour above the minimum wage. More than half of the blind workers earned the minimum wage or more. This suggests that the impact of a mandatory minimum wage would not have dire consequences for the workshops, while it would certainly benefit those blind workers who would receive increases in salary. In hearings conducted by the Department of Labor, Claude Whitehead, Coordinator, Training and Employment Services Policy Analysis at HEW, estimated that the national cost for minimum wage to blind workers would be about $9,000,000.

Surveys of balance sheets for several agencies which operate workshops show sufficient capital is available. The Industrial Home for the Blind (IHB) which operates three sheltered plants in the New York City area reported net worth of $13,689,655 at the end of 1976. In 1978 IHB produced revenue of $3,734,827 from its sales activities yet blind workers were only paid $360,000, less than 10% for their labors. In 1977, the Jewish Guild for the Blind, also operating workshops in New York City, had excess income over expenses of nearly one million dollars, which brought the organization's net worth to $25,640,251 at the beginning of 1978. The New York Association for the Blind, probably the largest, started 1977 with a shabby $55,264,654 in net worth, but by the end of the year there had been an increase of $2,156,574.

But in case you think that New York is getting fat while the rest of us are starving, here are a few other figures from a random sample of agencies around the country. San Francisco Lighthouse, already worth $6,354,747, ended 1977 with an increase of $449,148. This agency has recently gone to minimum wage for all blind workers. Here in Washington, the Columbia Lighthouse for the Blind was worth $2,229,998 as it started 1977, and this was up from $1,662,507 at the beginning of the previous year. In Cincinnati, the Clovernook Home and School for the Blind (which also operates a sheltered workshop) boosted its net worth by $244,534 during 1977 reaching a total of $7,945,877 at the end of that year.

This is hardly a picture of poverty, but to hear the keepers of the workshops, they are lucky just to keep their agencies afloat. To be sure there are some who do not mirror these increases, just as is the case in the competitive business market, but a random sample check of fund balance sheets from 36 workshops (1/3 of the NIB system) shows that 77% of them had excess income over expenses during 1977.

These are the actual figures contained in official reports filed with the Internal Revenue Service and other authorities. No one should be fooled by the typical accounting techniques which are used to hide workshop income. The scheme works like this. Workshops are almost always part of larger agencies — sharing heat, light, and some personnel. The question is how much is shared, and how much of the common load the workshop is forced to carry? Then, too, workshop proceeds are funneled off for social services (not necessarily provided to the workers) rather than being distributed as wages to the production force. It is thus a myth that workshops cannot afford minimum wage. Adjustments would be necessary for some, no question, but the means to finance better wages do exist — the data tells the story.

(4) It is said that there are few sources of revenue for workshops, making it impossible to withstand increased labor costs. Here are the facts. The workshops are so-called charities, not subject to federal or State corporate taxes. This, itself, is a whopping subsidy. One third of the workshops in the NIB system are actually units of State government, so, of course, while not paying corporate income taxes, they also have State appropriated dollars as an advantage.

Workshop keepers do not like to talk about the many sources of income available to meet their salaries and operating expenses. In addition to the above there are donations from civic organizations and the public, fees for services paid by public and private agencies who make referrals to the workshops, expansion and improvement project grants, grants for purchasing land and constructing buildings, staffing grants, United Fund appropriations, block grants provided by State agencies, and in some States there are also wage subsidies.

Not to be overlooked, of course, is the income produced by the workshops' sale of goods and services, and with respect to this source, the type of work done is an important factor. According to a sheltered workshop study conducted for the Rehabilitation Services Administration by Greenleigh Associates and reported in 1975, workshops for the blind have been outstanding as income producing industries due to an emphasis on prime manufacturing as opposed to subcontract type work. The study concludes that "subcontracting appears to be the least effective way to generate income for wages and to meet other production costs. It offers a narrow range of job tasks that require less skill and higher ratios of clients to supervisors. Overhead costs are lower, so are business revenues." The study also notes that in workshops for the blind, where the principal work base is the manufacture of goods for sale (prime manufacturing) the mean wages exceed the average for all other workshops. The conclusion is that income from business activity will be sufficient to support higher wages if management does its part to be selective and competent in its contracting. This and the active use of the other sources of income will produce sufficient revenues.

(5) It is said that blind workers do not want to earn minimum wage because they will lose entitlement to public benefits. Here are the facts. Blind workers whose wages are limited will usually be entitled to Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) checks each month. Although it is presently illegal for workshops to limit wages deliberately to prevent the loss of income to workers from any other sources, most shops do so as a regular course of conduct, disregarding the fact that this practice denies many blind workers the income and benefits to which they are actually entitled.

The conditions which govern the eligibility of blind persons for SSI and SSDI benefits are in many ways unique, and especially so with respect to work incentives. Under SSI, for example, blind recipients are entitled to deduct from their gross wages any expenses which are involved in producing their earnings. These may include federal, State and local income taxes, FICA taxes, transportation to and from work, meals away from home during working hours, union dues, retirement fund contributions, cost of special supplies and aids necessary for a blind person to perform the work, and the cost of instruction in special techniques such as the use of a long cane and for learning to read Braille. Under SSI, it is also true that the blind are not subjected to the "substantial gainful activity test," which severely limits the earnings of other disabled recipients, denying them benefits when their earnings exceed $280 per month. As a result of these provisions, many blind people are able to earn $600 or even $700 per month and keep all or a major portion of their SSI. Yet, an employee working full-time at the minimum wage during 1980 will earn $537 per month, substantially less than a blind person is permitted to keep while still receiving SSI. The SSDI requirements are somewhat different, but blind people are still permitted to earn substantially more than persons with other disabilities while still retaining cash benefits.

In a very real sense, however, all of this misses an essential point. The blind person must have the final choice of whether to work or to live on welfare; the purpose for subminimum wages has never been to allow the blind to keep their assistance checks. Workshops and industry must come to realize that assistance to the blind offered by the federal government cannot be used as an excuse for failing to pay a living wage. Public assistance and social security are intended to help the blind; these benefits were not intended as a subsidy for industry. So, pay the blind the minimum wage, and let the blind make the choice either to work or to live on welfare. This is a choice which is open to all, and it should be open to the blind as well.

(6) It is said that the present arrangement under Section 14(c) which allows the Secretary of Labor to issue different categories of exemption certificates is preferable to an inflexible minimum wage. Here are the facts. Flexible and even whimsical standards are at the heart of the problem with current law.

The system of certification which exists is open to abuse, and it has been abused in a relatively high percentage of instances. The law and regulations are confusing and cumbersome. How can a blind worker have any confidence that he or she is receiving what the law allows? First there are over-all shop certificates, then there are individual certificates, and added to it there are work activity centers. There are special minimums for workshops and there are special minimums for individuals; only a lawyer or an accountant (or perhaps a federal bureaucrat) can determine how all of these relate and should be applied in any particular case, but the uninformed workers simply do not have enough data to do this. They are victims of productivity ratings, time studies, and production standards while using outmoded methods and broken down equipment over which they have no control. Only the benevolent keeper of a lighthouse would favor such an unfair arrangement.

Mary Jane Risch, Compliance Specialist for the Wage and House Division for the U.S. Department of Labor confirms that confusion breeds violation. She says in a memorandum to Claude Whitehead at HEW:

> Last week I made a routine technical assistance visit to a WAC (Work Activities Center). The clients in that WAC work only two days per week. There were only two jobs in the shop. On one job the clients were not being paid anything at all (a serious violation) and on the other job they were paid on a "piece rate" basis where the workshop had never performed time studies to establish what the piece rate should be (also a serious violation). They had also lost copies of the time studies performed on their previous silk-screening job (another violation). They did keep an accurate record of the hours worked by the clients.

Whitehead, himself, verifies the problem posed by the complexities of present law, saying, in a 1978 letter to this subcommittee:

> In our 1976 study, we found that more than one-fifth of the clients classified as regular employees were being paid illegally at less than the minimum rate specified in the FLSA. This may have been caused by lack of understanding of FLSA by the workshop administrators and/or may have resulted from lack of compliance enforcement by DOL (currently DOL investigates only 3 percent of the workshops annually). Equally important, DOL compliance investigators are not properly trained to investigate this unique population of employees.

(7) It is said that blind people should not be treated differently from other handicapped people, so that Section 14(c) exemption should remain in effect for all. Here are the facts. The Greenleigh study of sheltered workshops (mentioned earlier) and other reports released in 1977 and 1979 by the U.S. Department of Labor show that wages for blind shopworkers are significantly higher than for other disabilities. Several workshops for the blind are not even certificated for subminimum wages, and even when they are, the majority of workers earn at or above the minimum wage. NIB's data tells us every year that the average wage for blind shopworkers exceeds the minimum wage.

This data suggests that there is merit in applying the minimum wage standard where blind workers are concerned. We have often said that there is nothing about blindness which imposes such a degree of physical incapacity that a person cannot meet and maintain acceptable productivity standards in industry. The problem, where there is one, is more often related to inefficiencies of management and lack of training for the production workers. Indeed, Congress may well face some different choices with respect to establishing appropriate wage protection for workers with handicaps other than blindness, but this fact should not be used as a reason for holding back on enactment of protective legislation for the benefit of the productive blind. In reality the blind have already singled themselves out for special consideration, and now it is time for our laws to catch up.

(8) In contrast to all that has been said, no one has said that the blind should not be paid at least the minimum wage if they work in competitive industry, even though here, too, there is authority for subminimum wages. Here are the facts. It is estimated that approximately 900 blind persons are working on subminimum wage certificates in industry outside the sheltered workshops, but exactly how many there are, not even the Department of Labor can tell you for sure. Probably there is so little response from competitive industry, because the minimum wage has long since become accepted policy in that sector of our nation's work force. Certainly with so few numbers likely to be involved in a required minimum wage, the impact on competitive industry would not impose a significant burden, and any increases in labor costs could be absorbed. Apparently the representatives of industry agree, or you can bet that they would be here to tell you why it couldn't be done.

Mr. Chairman, as a concluding statement, I think it is fair to say that this analysis reveals several major and fatal flaws in the assumptions and practices surrounding certification of blind workers for subminimum wages under Section 14(c). Contrary to the assertions of the keepers of the workshops, subminimum wages are not an advantage; let's face it. After all, there is hardly a stampede among blind people to achieve what we are led to believe is a coveted state of financial security. Carried to its logical extreme, the notion that we are better off to keep our subminimum wages is utterly ridiculous. We cannot buy the principle which asserts that the more you make the worse off you are, while the less you earn the better you feel, yet this is the sophistry which we are being asked to swallow. Who could have ever thought that the Rockerfellers would be so poor in their wealth while the blind so rich in their poverty.

Mr. Chairman, let us not be fooled or lulled to sleep by the sympathetic pleas of the keepers of these workshops. Protecting the income of the blind through guaranteeing at least the minimum wage is a policy which merits this subcommittee's affirmative vote, for if passed it would bring equity to the wages of all blind workers in the country. The blind are anxious for this, and we have waited a long time for the Congress to act on our behalf. Any time this subject is considered there will of course be outcries from management and you can expect the charge that Congress is imposing yet another handicap on the handicapped. But the fact is that minimum wage for the blind is really not impossible to afford; the key factors are in the hands of management, not the workers. Today there are several workshops for the blind which demonstrate that efficient management, a suitable production line, and a steady flow of contracts will easily yield an income to pay everyone at least the minimum wage and even more. The demonstrations of success exist, all we are asking is that at least they be recognized in order to provide the blind workers their fair share of income in the work force. Mr. Chairman, it can be done, it should be our objective, and be assured we will work with you toward that end.

STATEMENT OF KENNETH JERNIGAN, PRESIDENT, NATIONAL FEDERATION OF THE BLIND

Mr. **Jernigan.** Mr. Chairman, we appreciate the opportunity of being able to talk with you. I am Kenneth Jernigan of the National Federation of the Blind. On my left is Mr. James Gashel who is our director of governmental affairs.

I have submitted a statement to the subcommittee.

Mr. **Beard.** That statement will be incorporated totally into the record and, as I indicated earlier, we would appreciate it if you would be short and right to the point.

Mr. **Jernigan.** I will do the best I can, sir.

We believe that all blind persons who are going to work should have the minimum wage since all sighted persons or nonhandicapped persons who work have the minimum wage. Does that mean all people are equally productive? No, it does not. All sighted people are not equally productive. I would assume that not all Congressmen are equally productive or nonproductive. None of any group is equally productive, but it is thought that if a job does not deserve a certain amount of pay, perhaps that job ought not to exist.

Several things have been brought up. Does the law permit, as it now is, payment to people of less than the minimum wage if they can earn it? No. Then why is it that we learn that over half of the workshops monitored are violating the law? There must be something wrong. Well, it is not difficult to understand, I think. In the first place we are told that a number of blind people cannot be productive. Now, why can't they? Well, because they are not only blind, but when you get past that, they are multiply handicapped.

What does it mean to be multiply handicapped? Let me tell you some of them. There are the usual ones: vascular, strokes, mental. There are also such things as these: If you are over 55, you are multiply handicapped and that is the good excuse for paying you less money. Well, I know a number of people who might dispute that. I am not quite to the stage that I would, but I will soon.

If you are socially or culturally deprived, whatever that may mean, if you are foreign speaking, if you are an ex-convict, you are multiply handicapped. If you have alcoholism or drug addiction, yes, you are multiply handicapped. Epilepsy. Then there is a big category called "other", and I assume it means whatever other means. The problem is, when we go and try to organize in the sheltered shops, we are told you cannot do that. Then the NLRB finally tells us we can, so the shops refuse to bargain with the unions and we are fighting in the courts. We are still not able to bargain, so there is no check and balance. So we go another way.

The Department of Labor is supposed to enforce, but it is not exceedingly knowledgeable in what blind people can and cannot do, very often, so the workshops supervised themselves. You would not do that in any other kind of job and I don't think it is reasonable or fair to do it here. I think there ought to be checks and balances That means the minimum wage.

Let us assume that the blind person is—I don't assume it, but let's assume that he is—less productive than others. It is more than made up for by the subsidies that these shops get. I was interested in some of the earlier testimony. If you are in private business, then you have to pay taxes. You run a sheltered shop, no, you don't pay any taxes. Right there, that would pay for a good many minimum wages.

You get priority in Government contracts; you don't have to bid for them. In addition to that you get, very often, a direct subsidy from the Government in that you get rehabilitation or the training fund is given to you and then, in addition to that, especially you get large contributions from the public. All of that is true, and yet we are told that the reason that they can't pay minimum wages is because if they do, then the sheltered shops are going to go out of business.

I just want to say this to you in addition, that we are told that the prevailing wage is what should be used. That is a standard, but we happen to know that a number of shops and different areas have arrangements with local businesses and sometimes businesses that give them subcontracts, and that those businesses certify what the prevailing wage is in the area for the job done, and it just happens to be about the minimum wage.

I give you, Mr. Chairman, to look at, something that came from a workshop in South Dakota which is, as far as I am concerned, in very bad taste, almost not a joke, but it is called De-Lited Industries. Think about it. The blind object to it but they didn't name it. Anyway, here is a bundle of 50 cords. It is produced by a company there, a window company. The head of that company happens to sit, or representative of that company sits, on the advisory board of the sheltered shop. That company then helps them get contracts. One of the contracts it helps get is from his company.

Here you have 50 strings and 50 pulleys attached. This is the completed packet. The worker is expected to take these strings, all 50 of them; they come with this knot tied in them. The pulleys are not on them; you have a barrel of pulleys. All right. The man is expected to do this, to take a pulley out of the barrel and put it on the string, 50 pulleys, and then tie this little knot here and it has to be tied exactly on the end. It can't be up further; it has to be right there because the string is a precise length.

I will tell you what. I would be almost willing to say we will withdraw our request for the bill if there is a single Congressman who can make the minimum wage doing this, because what do they do? Here are 50, you are going to put the pulleys on them, and you have to tie the knots. How much do you guess they pay? Thirty-five cents to do it. That is it, 35 cents.

Mr. **Beard**. Wait a minute, hold on. Let me take a look at it.

Mr. **Jernigan**. Yes, sir. Congressman, if you can do it, I can make the case.

Mr. **Beard**. I am not going to try.

Mr. **Jernigan**. Put all 50 on there and tie the knots. In order to do that, you have to do 80 to 90 of those bundles in an 8-hour day.

I said, "How did you arrive at the piece rate?"

"Well, that is what the window company people can do."

"How do you know?"

"Well, that is what they told us."

Mr. **Beard**. It is like piece work in a jewelry shop.

Mr. **Jernigan.** I say there is not a human alive who can do 4,500 of those a day.

Mr. **Beard.** Can we have those?

Mr. **Jernigan.** I would like them back. When you get through with them, I would like them back; they make a good exhibit.

Mr. **Beard.** For the time being, we will hold them in the committee.

Mr. **Jernigan.** I will get another set.

Mr. **Beard.** I want to show them to the members. I will return them to you.

Mr. **Jernigan.** All right.

I want to say to you, in that very workshop last year you had people laid off and they got work about every 3 days, the blind people, but do their supervisors then get laid off since they got nobody to supervise? Well, no; they are State employees because this is not private; this is a State workshop. What do you guess happens this year? This year these people now are working in shifts, so about a third of the workers work every day and therefore the supervisors all still get paid. That is what we are talking about. That would not occur if our bill went through.

Just this thing, finally. I went to the State workshop at Utah and what did I see? I saw in the first place a large building, over 30,000 square feet, and I saw 13 blind workers there and I saw, I think it is either 6 or 7, six, let's say, at the minimum, sighted supervisory and support staff. The building was paid for with tax money; the utilities are paid for with tax money; the salaries of all the management is paid for with tax money; all the machinery was bought by tax money; the upkeep is tax money.

So what does the production of the workshop have to go for? Only for the salaries or the wages of the workers in that shop, and it has to pay them for the material that is bought for them to work on; that is all. So the highest pay in that workshop is less than $2 an hour and I saw a woman there sorting broom corn at 50 cents an hour. They told me that she just loves to work. I suppose she does if she has to otherwise sit at home every day.

The brooms are better than you find in the stores. Why not market more of them? They said, "It is hard to do that, but we are thinking about it." They sell them for far less than the stores can buy them otherwise. Why don't they get sold? I said to the man: "Tell me, since the workers get paid what they get paid, on a piece rate or under $2 an hour, what does the manager of this workshop make?"

"Well, I don't know that I can tell you."

"$15,000 a year?"

"Yes."

"How about $17,000, $20,000?"

"Yes, he makes that."

I said, "No matter what these workers get paid, he makes that; right?"

"Yes, he makes that."

"Since you are his boss you must make more; therefore, $20,000, $25,000, $30,000?"

"Yes."

This is a State employee, paid for with the tax money. I think it is not difficult to figure why these people can't get out and get contracts and do the other things.

Mr. Chairman, I say to you that there may be abuses anyway you cut it, but the blind people in this country have suffered the abuses long enough. Let's let the management now for a while have its salaries geared somewhat to this.

I conclude by saying this to you. People who have advocated change have often been the victims of personal attack. You wait and see if this committee does not get a flood—not dealing with the issues, but of direct personal attack upon us in the civil rights movement of the blind and the National Federation of the Blind and upon me personally as president of this organization.

I tell you that some people in New York connected with the Workshop for the Blind, according to a well-known blind lawyer in this town, called him there and offered him money to ruin me personally if he could, doing it professionally, and I will be glad to tell you that under oath. He said it in the presence not just of me, but of another gentleman, Jim Gashel, who is also here and can bear testimony to the same thing he was told by that man and by another lawyer who did not tell me that. This is what we face, and we urge you to do something about it.

Mr. **Beard**. Thank you very much for your testimony.

Let me say something that I mentioned earlier. It goes right back to what Pat Schroeder said. If someone can do the job, he should be paid the minimum wage. It should be that way right now if the agencies of Government were actually enforcing the law.

Mr. **Jernigan**. They cannot enforce the law because we don't have a check and balance. That is why you have the minimum wage and that is why you have sanctions on IRS payments and all kinds of other things. You cannot depend on people to police themselves. So the system we have now is on the books, but it does not work. The blind people are getting paid the wages they are while the management gets paid the wages they are and the people we are dealing with, who are in the sheltered shop organizational management structure, then come and attack those of us personally who try to do something about it.

Mr. **Beard**. Well, that is the reason we are holding these hearings and we hope to be able to do something about this. As a matter of fact, I am a cosponsor of the bill.

Mr. **Jernigan**. There are also mop heads we have here and I might show that to the committee. Where are the mop heads? We will donate those to you. Let me, Mr. Chairman, tell you how much you get paid for doing this in the shop. I say to you when you talk about, well, we will pay them according to what they produce. The Wall Street Journal says what we have known all along. You can set the production standards high enough so that there is not a human being alive who can do it, and then say how sorry you are for him because he is handicapped.

Mr. **Beard**. Let me ask you a question while you are pulling those mops out.

Mr. **Jernigan**. Yes.

Mr. **Beard.** What are you doing about getting some of your people into private industry?

Mr. **Jernigan.** We are working hard to try to get them into private industry.

Mr. **Beard.** What are you doing?

Mr. **Jernigan.** Talking to everybody that I can and trying to get the State rehabilitation people to work on it. The National Federation of the Blind has set up, in conjunction with the Department of Labor, job opportunities for the blind project, and we have a number of people in private industry, but you still find a lot of employers who simply feel that blind persons can't work and won't employ them. You also have an incentive for blind people to be kept in sheltered shops by some of the management.

These mops, you have 10 mop heads here. You must put those 10, fold them over and tie very tightly 4 strings around them. We have a worker here from the shop that does that, Fred Rockwell, and he can tell you how many you have to do of these an hour to make the minimum wage, but I think—well, we have done some trying on this and we cannot find anybody who can do it.

Mr. Chairman, may I ask him to tell the committee what it takes to make the minimum wage on this?

Mr. **Beard.** Very briefly.

Mr. **Rockwell.** Forty-four per hour and in Phoenix we have a man who has been doing it for 10 years and he has not been able to do that yet.

Mr. **Jernigan.** You are saying 44 packages of these.

Mr. **Rockwell.** Yes.

Mr. **Jernigan.** 450 of these must be folded and tied with 4 pieces of twine. I don't believe there is a human alive who can do it.

Mr. **Beard.** I am sure that is the case.

In my own State of Rhode Island, in some State facilities, for example the Court House and the Registry of Motor Vehicles, they have concession stands that are manned by blind people. It seems to me on the surface that it is great to give a blind person a job. On the other hand, it goes contrary to the very thing you are here for today, equality. By accepting a preference, you are allowing yourself to be patronized.

Mr. **Jernigan.** Stand up and work like a man, do your share, but on the other hand we won't give you the same opportunities we will give other men. We will give them minimum wages and training and they will get opportunity and you won't, but on the other hand, stand up and compete like a man.

Mr. **Beard.** No, but you don't want to be patronized, either.

Mr. **Jernigan.** It depends on how hungry you are and which comes first.

Mr. **Beard.** It seems to be inconsistent to be looking for special consideration in some cases and to be looking for equal treatment in others.

Mr. **Jernigan.** Could we have a little more equality and a little more equal opportunity and then a little more of the other?

Mr. **Beard.** As the chairman of this committee, I don't believe a blind person should be treated any differently. I think that is what you are asking us.

Mr. **Jernigan.** If you will give us that, we will ask for that.

Mr. **Beard.** I think that Mr. Beck is aware of the other side of the coin that I am bringing out, in Rhode Island.

Mr. **Beck.** They have blind vendors, operators all over the country, practically. We have in Rhode Island about 20 of them. They are manned, as you mentioned, by the blind. They give a kickback to the State of 10 percent for bookkeeping purposes and such which, I think, is just awful. They are supposed to be operating their own business. I don't see any reason why they could not work at these stands. If other disabled people wanted such stands to operate other things, businesses, I am sure they would be able to get them as well.

As long as I am standing, I would like to say that I hail from Beard country which is Cranston, R.I., and I am proud of that. However, I am terribly ashamed that in Rhode Island we have the Rhode Island Association for the Blind and it operates a sheltered shop. In that sheltered shop, as of today, there are persons who are earning less than $1 an hour, less than you can purchase a loaf of bread for, and I think that is definitely unwarranted at this time and in these days. It is just awful. I beg and hope and pray that the chairman and the committee would favor the legislation, H.R. 3764, that would help the blind.

Thank you, Mr. Chairman.

Mr. **Beard.** Thank you very much, Eddie Beck.

Mr. **Gashel.** Mr. Chairman, may I say something with respect to your question on special concessions. It is really this. Hopefully, the day is going to come in this country when blind people won't have to ask for special concessions and, frankly, I think we do very little of that now, but what we are trying to do through this particular legislation is to achieve equality so the day when we need special concessions to get some equality will actually go away.

Fred Rockwell is here and will appear in a moment with Ralph Sanders. Fred can tell you that there are examples in Industries for the Blind in Arizona where there are sighted people with lower actual productivity, who are guaranteed the minimum wage, where there are blind people in the same shop with higher productivity who are not even paid the minimum wage. Now that is not equality. We are here to end that kind of treatment and if you will give us equality, we are not going to be up here talking about special concessions. We are prepared to have equality; that is it.

Mr. **Beard.** Mr. Stephens?

Mr. **Stephens.** Thank you. Mr. Gashel, just to extend your comments for a moment. I make the observation that that is the problem with the judgment Congress made in 1938 in creating a subminimum exemption for handicapped. It seems to me what you are asking is for Congress to reevaluate that judgment that was made in 1938, not only with respect to blind people, but maybe for all handicapped. I notice, for instance, that the subminimum exemption not only covers physical handicaps, but even makes reference to age, and yet we have the Age Discrimination in Employment Act which was passed in 1967, so I think Congress has made reevaluation in its judgments throughout the years.

So, given that fact, I am wondering how you respond to the argument that H.R. 3764 creates a new inequity for blind and other people with other handicaps.

Mr. Gashel. Yes; I think that is a good question. Let me say this. You know, we cannot speak from the experience of persons with other kinds of disabilities. If the data are there to justify moving in the same direction that we are recommending, then let it be done.

Speaking for blind employees, it looks like this. The Department of Labor's data show that the blind as a group stand out in terms of their productivity. The National Labor Relations Board has recognized that. The National Labor Relations Board will not take jurisdiction over rehabilitation facilities; it will take jurisdiction over business and industry and it has done so in an unbroken line of cases involving workshops for blind. The NLRB judging the business activity has taken jurisdiction over three successive workshops for the blind and ordered elections. Now that says something.

Furthermore, the law in terms of the Social Security Act singles out blind people for special work incentives, so in acting the way that we are recommending, you don't have to also carry the burden of flying in the face of some disincentives in the social security program. For example, blind persons on supplemental security income benefits of title 16 of the Social Security Act can earn $200 or $300 more above the minimum wage a month, $700 or $800. If you were working at the minimum wage, you would only earn $531 a month. Yet, denying blind persons the benefit of the minimum wage also denies them the benefit of the work incentive which the Congress put into the Social Security Act and that, of course, is wrong, too. So you can move selectively with respect to the blind and not also have the disadvantage of creating more work disincentives.

Mr. Stephens. One of the points that your colleague made was that the employers have an incentive to keep workers in the work force and not get them into private placement. I wonder if you can give us some further background on this problem of private placement, and in answering that, let me add this other aspect of it. Don't the individual workers themselves have some responsibility here to take an initiative and get into private unsubsidized employment?

Mr. Gashel. I suppose the workers in a workshop have as much responsibility to find themselves jobs somewhere else as other people do, but when you are earning $1 an hour or less and you have to go to work every day to earn that amount of money, what time do you have. what resources do you have to find that other job somewhere else? You have to realize that the population involved is really a vulnerable population in the sense that they have no resources available to them to achieve that placement in competitive industry, so if left to their own devices, they simply have to go there and pick up their $1 an hour just so they can put bread on the table. Beyond that, they also have to compete with the psychology which is still abroad that says that blind people simply can't cut it.

You know, it is no accident that in the Federal Government itself, for example, you won't find very many blind people above the GS-4 or GS-5 level. The Social Security Administration is glad to hire a lot of blind people to answer the telephone, as teleservice representatives. We have had to wage a major battle, and we are coming out of the era when about all that blind people did for Social Security was just to answer the telephone and never get above a GS–6. That is discrimination. It happens in a program which is supposed to be sensitive to our needs.

Mr. JERNIGAN. Let me say in further answer to your question, sir, that my reference was to this. If you have a workshop and it is turning out a product, there is an incentive to keep your best workers and not try to put them out into private industry because you make more money by doing it.

Mr. STEPHENS. As I understand the problem, the Department of Labor is given a very substantial responsibility over protection of wages and it has not, apparently, been able to do a completely satisfactory job. As a result, workers really are not being paid in accordance with their productivity. The point has been made that the reason why workshops, perhaps, have to pay workers low wages is because of overhead expenses and other sorts of expenses. Are you advocating that the Department of Labor take on a management overseeing role and give advice and make judgments on whether or not a workshop is being managed properly?

Mr. JERNIGAN. No. I am advocating, sir, that blind people be paid a minium wage the same as everybody else. Management will then have some incentive to be more efficient, although we are not talking about that much money. We ask that the Labor Department try to enforce the law and it could not in the private industry, even if the law so said, but if you had no more checks and balances than you do in workshops, you would not have to pay.

Mr. STEPHENS. Do I understand you correctly, you are suggesting that if you require a minimum wage, that will create an incentive for workshops to better manage their operations?

Mr. JERNIGAN. Yes, sir, that is what I said.

Mr. STEPHENS. I guess my question necessarily follows. It seems to me what the workshop might do, and I think they have indicated it in previous testimony, they might lay workers off. What you have then are workers losing job opportunities which they might otherwise have.

Mr. JERNIGAN. I have heard that all the businesses in the country were going out of business every time the minimum wage goes up. Also it seems to me that if their own salaries depend on it, they will find ways to manage efficiently and I don't——

Mr. STEPHENS. Can you confirm Mr. Fletcher's representation that his committee does a satisfactory job of periodically overseeing and reevaluating the 190 or so workshops that are on the list?

Mr. GASHEL. No, I think the evidence would indicate to the contrary. I think the committee has available to it a General Accounting Office report which shows that the reevaluation process simply is not going on to the extent required by law. You would have to ask Mr. Fletcher, but I don't think he has any staff out there to—he mentioned himself and two other people to handle 188 workshops and do these reevaluations. It seems to me that if they were doing a good job there would be more than 7.5 percent of the work force moving out in the competitive industry but that is all there is today.

Mr. **Stephens.** Thank you, Mr. Chairman.

Mr. **Beard.** We have some additional questions that we will submit to the National Federation of the Blind and we would appreciate your answering them as soon as possible.

Mr. **Jernigan.** Yes.

Mr. **Beard.** Thank you very much, gentlemen.

[The material referred to appears in appendix.]

Mr. **Beard.** The next witness is Dean Phillips, president of Goodwill Industries.

STATEMENT OF DEAN PHILLIPS, PRESIDENT, GOODWILL INDUSTRIES OF AMERICA, ACCOMPANIED BY CHARLES HARLES, GENERAL COUNSEL

Mr. **Phillips.** Thank you, Mr. Chairman.

My name is Dean Phillips and I am president of Goodwill Industries of America.

Accompanying me is Mr. Charles Harles, who is our general counsel.

Goodwill Industries of America represents 168 locally autonomous member Goodwill Industries in the United States.

Although Goodwill Industries workshops represent a small percentage of all sheltered workshops in the United States, they represent 20 percent of the workshops providing regular programs, as opposed to work activities centers, and serve 41 percent of the clients in regular programs. We think that because of the size and success of our programs, Goodwill Industries can serve as a good example of how the vocational rehabilitation program is functioning and how it can be improved.

There are two basic issues we would like to address today. One is the question concerning blind and other visually impaired persons in sheltered workshops and whether they should be accorded treatment different than other disability groups under section 14(c) of the Fair Labor Standards Act.

The other issue is much broader. We think if the regulations and administration of section 14(c) is to be questioned, then the whole system should be scrutinized and not just a small segment. The alternatives to the present system should also be addressed before any conclusions or recommendations are made.

At the outset I want to make it clear that we do not feel that subminimum wages are adequate or provide sufficient income for a reasonable standard of living. We are not here only to defend the present system. We also want to explore other sources of income for disabled persons and means of increasing wages in our workshops.

In 1979 Goodwill Industries provided services and/or employment to more than 1,800 blind and visually impaired persons. This is a small but significant number of persons. These are persons whose primary disability is visual. Most of these 1,800 individuals are multiple handicapped. These numbers do not reflect how many of the more than

60,000 persons served or employed in Goodwill Industries may have visual impairments in additional to their primary disabilities.

The types of handicapping conditions these persons have in addition to their visual problems is varied. A telephone survey to a cross section of our membership revealed that most blind or visually impaired persons served or employed by Goodwill Industries have secondary handicapping conditions. These secondary disabilities generally follow the pattern of primary conditions served in a Goodwill Industries. The majority are mental retardation, mental illness or developmental disabilities such as cerebral palsy. These conditions by themselves constitute severe handicaps and barriers. Coupled with blindness or substantial visual impairment, these individuals constitute the most severely handicapped. The productivity of these persons is quite often extremely low. Some had productivity ratings as low as 10 percent and there were a substantial number in the 25- to 50-percent bracket.

Section 14(c) of the Fair Labor Standards Act is based on the premise that a physical or mental handicapped condition may affect a person's productive ability and section 14(c) allows less than the minimum wage only when that correlation can be shown and documented. Blindness should be treated no differently than other handicapping conditions for this purpose. If a person can produce at so-called normal levels, then there is no need for section 14(c). Although a high percentage of blind persons can produce near or above minimum wage level, there are still a significant number of blind or visually impaired persons, including the multiple handicapped, who for various reasons cannot produce at or near that productivity level. Should we deny employment opportunities for those persons?

We feel that proper training, good management, steady contracts and modern production methods and equipment are important factors in increasing productivity of workers in our workshops. When we address the second issue of our testimony we will discuss how these factors may be enhanced.

Congress had admittedly given the blind a substantial break in the disability test and earnings allowance for SSI—Supplemental Security Income—and SSDI—Social Security Disability Insurance. The differences between the blind and other disabilities in these social security laws is not because of any unique productive capabilities of the blind but rather a very effective job of political persuasion by groups such as the NFB. Congress is now considering legislation which recognizes that work disincentives need to be removed from SSI and SSDI for all disability groups.

To arbitrarily mandate the full minimum wage for these individuals would do nothing more than deprive many of them of any work experience or earned wages. To bring many of these multiple handicapped blind persons to the full minimum wage would be impossible for most workshops. There are few, if any, States that provide any substantial subsidy for these persons through the workshop.

The issue that should be discussed is the issue of adequacy of wages for handicapped persons in sheltered workshops; whether they be blind, mentally retarded, deaf, or paralyzed and whether it be in a workshop for the blind, Goodwill Industries, Easter Seal, or Association of Retarded Citizens.

In the past, sheltered workshops were looked at as charities which provided long-term sheltered employment for physically handicapped persons. In most instances, this was true. That picture has changed dramatically in the past few years. Both the people served by sheltered workshops and the services they provide have changed. These changes raise many serious and challenging issues for sheltered workshops.

People with physical handicaps and less severe mental handicaps are being integrated into society at much earlier stages than ever before. Thanks to the efforts of parents, the courts and legislators, handicapped children can now receive an education, often in regular schools, that prepares them for meaningful and often self-sustaining lives. The physically handicapped are more mobile now than ever before. Removal of architectual barriers, motorized wheelchairs, new engineering techniques for many jobs, and the rapid development of jobs in electronics and data processing have opened many new opportunities for the physically handicapped.

We have now largely turned our efforts toward people with less visible handicaps. The mentally retarded, emotionally disturbed, and developmentally disabled not long ago remained neglected in institutions. They were not considered to have much vocational potential. With new training techniques, more sophisticated evaluation systems and concerted placement efforts we know that these people can benefit from the rehabilitation programs and placement services in sheltered workshops. Admittedly, it has not been an easy task. The training and services must be more sophisticated and often more expensive facilities and more professional staff are needed.

Goodwill Industries can serve as a good example. In 1951, 85 Goodwill Industries reported on 7,356 employees. Of these employees, 5,064 or 69 percent were physically handicapped. Only 16 percent had mental or emotional handicaps. In 1951, rehabilitation services were not reported. At that time, Goodwill Industries served primarily as a source of employment.

Contrast 1951 with 1979. There were 144 Goodwill Industries reported employment and rehabilitation services to over 60,000 clients. Over 60 percent of those persons had mental or emotional handicaps or were classified as developmentally disabled. Only 20 percent had physical disabilities and fewer were orthopedic. These figures deal only with primary disabilities. Many of those with physical disabilities had a secondary mental or emotional disability.

In 1951 the primary service offered in sheltered workshops was employment. Today Goodwill Industries provide medical and nursing services, psychological services, social services, educational programs, personal and social adjustments, job readiness and placement, as well as the vocational services of evaluation, adjustment, and training.

In 1973, the Rehabilitation Act mandated a priority for individuals with the most severe handicaps. These are handicaps that require multiple services over an extended period of time. This priority has had a very real impact on the programs and services of sheltered workshops.

The present client population of sheltered workshops is made up of the more severely handicapped persons with the least vocational potential. These individuals are the most difficult to train and to place in outside competitive employment.

This change in the nature of the clients we are serving, coupled with a new emphasis on the more severely handicapped, a greater consumer involvement in the rehabilitation process, and the increasing complexities of operating a sheltered workshop in today's economic environment, have created many important issues which we must face and deal with if we intend to continue as a viable component in vocational rehabilitation.

The Fair Labor Standards Act, since its inception in 1938, has provided special dispensation for handicapped workers whose productivity is limited by the handicapping condition. The intention of this provision has always been to provide job opportunities for handicapped persons where there otherwise would not be such opportunities. Clients in sheltered workshops whose earning capacity is impaired by a mental or physical handicap are paid wages which are commensurate with wages paid nonhandicapped workers for the same type, quality and quantity of work. Wages below the Federal minimum wage can only be paid when the person's productive ability falls below the minimum wage level and only when proper certification has been obtained from the U.S. Department of Labor.

Sheltered workshops do not arbitrarily set low wages for handicapped employees. The productivity of an individual is carefully measured at certain intervals to determine the proper rate of pay. The Department of Labor requires these reviews be conducted and documented by time studies or other measurement.

Although there is no minimum set under certain certificates, WAC and Evaluation and Training, and the floor rate for regular programs may be as low as half of the regular minimum wage, each individual is paid according to the individual's actual productivity on the job.

The special certificates are issued by the Department of Labor on an annual basis and the Department has stepped up the periodic review of workshops to insure their compliance with the law and regulations. To assist workshop administrators, Goodwill Industries of America has developed a 150-page wage and hour manual for sheltered workshops. We have made this publication available not only to our members, but to all other workshops that might need some guidance in that area. We also encourage other workshops to participate in our seminars that deal with wage and hour policies and practices.

Obviously there is a gap, and a substantial one, between what many handicapped persons earn in a sheltered workshop and what one would consider a living wage.

The question we must address is, what to do about it.

The issue, the adequacy of wages for handicapped clients in sheltered workshops, cannot be answered by arbitrarily raising the minimum wage for those people. We are certainly in favor of paying our handicapped clients the minimum wage, and more, when and where they can earn it, but sheltered workshops must operate in the real world. When workshops face wage increases due to new minimum wage levels, the workshop must face the same problem that businesses face. They must (1) increase efficiency, (2) obtain more productive workers, or (3) raise the price of the goods or services produced. Certainly the latter is done by workshops, but it is rarely sufficient to cover the total increase. To get more productive and efficient clients often means getting clients with less severe handicaps. This would fly in the face of the basic purpose of the workshop.

Sheltered workshops are a very special kind of enterprise with a special type of employee or client. The basic purpose is not to make money or be the most efficient producers, but to provide a real work setting for evaluation and training and to provide employment for persons who cannot find or retain work in the competitive labor market because of a disability or disadvantaging condition.

Most sheltered workshops employ the low producers and those needing services which they cannot get in regular employment. Those who do not develop competitive productive capabilities are placed in competitive employment whenever possible. Last year Goodwill Industries placed more than 10,000 persons into competitive jobs.

The Greenleigh study, conducted for HEW in 1975, found that for the overwhelming majority of workshops, business income is not sufficient to meet costs, even when costs include the absolute minimum in wage payments to the handicapped workers. Often the workshop must assume added costs, such as the hidden rehabilitation costs, for long-term sheltered employees, and use production methods which are engineered to be rehabilitative or therapeutic rather than industrially efficient. At the same time, the workshop must compete with regular for-profit business and industry for work and prices, and contract bids must be competitive. Given the fact that referral and grant income must be used for specific purposes, and charitable donations of money only make up a small percentage of income, workshops are hard pressed to provide the client's income beyond what they can produce.

In 1967, Secretary of Labor Willard Wirtz told Congress:

> We must at the outset face up to the fact that the achievement of a full minimum wage for handicapped clients of sheltered workshops will require outside financial support. This will mean a basic shift away from basing wages on what the handicapped worker can produce.

Wirtz strongly recommended that wage supplements be given to handicapped clients in sheltered workshops to provide them with an adequate income, but devise the supplement to provide an incentive to work, in competitive employment if possible, and to increase productivity. The Greenleigh study in 1975 also recommended a wage subsidy as a means to increase the income of sheltered workshop clients.

Ten years after Wirtz's recommendation, there is still no wage subsidy. In 1978, Congress passed and President Carter signed into law the Rehabilitation Comprehensive Services and Development Disabilities Act of 1978, Public Law 95–602. Title VI, part A, provided for community service employment pilot programs for handicapped individuals. This program would provide community service jobs to handicapped persons at minimum wage as well as paying work related expenses. The program is to be administered by the Secretary of Labor, and Congress authorized $35 million for fiscal year 1979, $50 million for fiscal year 1980, $75 million for fiscal year 1981, and

$100 million for fiscal year 1982. As yet, the Department of Labor has taken no action to implement the program, and no funds have been requested to fund it.

In 1974, supplemental security income was introduced under the social security system to provid benefits for the blind, aged, and disabled. Many thought that this would be the answer to the problem of inadequate incomes for disabled persons working in sheltered workshops. This, however, has not been the case. In many instances, SSI starts to be reduced. This amount varies from State to State and depends on the amount of income from SSI. Generally, the amount would be less than $200 a month. Many people on SSI would rather not take the chance of having their benefits reduced. There is also a disparity between the blind and other disabled. The blind can earn approximately twice as much before total benefits are cut off as can other disabled persons.

A much more important disincentive is the definition of disabled used by Social Security. The definition used by Social Security relates to the performance of substantial, gainful activity. This is defined as earnings in excess of $300 a month. The nature of severity of the handicap or disability is not a factor. The need for supporting medical and rehabilitation services is also not a factor. Persons with chronic or recurring disabilities are not likely to jeopardize their income maintenance benefits and medical benefits by earning in excess of $300 a month. These individuals either do not work at all or restrict the type of work or hours worked to insure they do not exceed this artificial barrier.

These 1978 examples would still be true today with appropriate increases to the SGA.

A true case can best illustrate the problem. Mr. T is 31 years old, is moderately retarded, and has severe physical problems. He was in an institution from age 17 to age 29. His productivity is limited by a periodic memory loss and his performance is limited by his physical handicaps. Mr. T requires some daily living supervision and lives in a group home. Mr. T pays $168 a month for room and board. The county pays $67 a month to the group home for additional supervision. Currently, Mr. T is producing at about 60 percent of competitive level and earns an average of $260 a month. This puts the following benefits in jeopardy:

One: Loss of $155 a month SSI.

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All too often we see sheltered workshops floundering from financial difficulties brought on by the inadequate application of sound business practices. We are, in reality, a special type of small business, competing in a free enterprise system to maintain solvency, to sustain growth, and to continue providing services to handicapped people.

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As a social agency, a sheltered workshop uses its industrial and commercial activities as tools for the rehabilitation of handicapped people. The resources that private industry would normally employ to generate a profit are turned into human services. The efficiency of industrial and commercial activities is sacrified in a workshop, contrary to good profit-oriented business practices, to accommodate the needs and functional limitation of the handicapped. Organizational stability is generally attained by maintaining a very delicate balance of efficiently serving as many clients as possible while maintaining industrial and commercial activities effectively enough to support the organization and other human services.

As a business enterprise, sheltered workshops operate in an economic environment that is created by businesses operating for profit and in competition with one another for markets, capital resources, labor, and commodities. To operate and survive in such an environment, sheltered workshops must adopt the business position, policies, and practices which are dictated by the economic environment. Put in more specific terms, a sheltered workhop must use its reources in a manner which maximizes the efficiency of its services while maintaining a sound financial position consistent with the reality of the world in which it operates to assure that it remains a viable source of human services to people.

The Greenleigh study pointed out that almost 55 percent of workshop revenues come from business and commercial activities. We cannot ignore the fact that we must employ a practical business attitude toward the maintenance of this element of our program which provides the financial backbone of our varied rehabilitation and vocational training activities. We must rely on the workshop administrator to control a complex, perhaps multimillion dollar program which employs several hundred people, in a fluctuating and often uncertain economy. Add to these economic uncertainties the fact that our labor force is made up of individuals with the lowest potential for competitive employment because of their disabling conditions. We must balance the nonproductive skill training and work adjustment programs with production departments that are rarely, if ever, fully able to make up the difference. Add to this already complicated and complex management situation the requirements of the wage and hour regulations, case service management and recordkeeping, quality control and production standards, public relations, community planning, et cetera.

Workshops need assistance in developing the business skills and acumen needed to provide the types of jobs to our handicapped employees that have greater income potential. At the present time, sheltered workshops receive little help from the State or Federal Government in the area of industrial development. There is the Javits-Wagner-O'Day Act which has provided many jobs to the severely handicapped, but that program continues to give a preference to blind workshops, and several private trade associations have taken extraordinary steps to prevent many products from being included in the program.

Although many of our workshops participate in Javits-Wagner-O'Day, workshops also need access to other government contracts. The Small Business Administration has opposed the participation of workshops in the small business set-asides for Federal Government procurement. For 1 year, fiscal year 1979, workshops are eligible. During that year, workshops successfully bid on contracts totaling $1.1 million out of a multibillion dollar procurement. Congress renewed this authority last year, but final passage has been delayed for reasons unrelated to this program.

Technical advice in our industrial programs is badly needed. We are not considered eligible for this type of help from SBA even though Congress has long provided for SBA loans to workshops. There used to be a limited amount of technical assistance from the Rehabilitation Services Administration, but that was geared primarily for rehabilitation programs and it has been temporarily suspended altogether.

Many have the misconception that workshops receive huge sums from government grants that could be used to improve facilities and programs. The government funding received by workshops is almost exclusively for case services; specific rehabilitation services to individual persons; or in the form of staff support for rehabilitation programs, not industrial programs. Even then, the costs for these rehabilitation programs often exceed the income, and the programs must be subsidized.

One of the most important and pressing problems facing sheltered workshops today centers around the issue of longterm employment of severely handicapped persons and the resulting hidden rehabilitation costs associated with extended employment. The Greenleigh study was quick to discover that when sheltered workshops provide remunerative employment, they are also providing some rehabilitation, and thus incurring unrecognized costs of that rehabilitation over and beyond the basic production costs. Greenleigh further pointed out that these buried or hidden rehabilitation costs are not currently being reimbursed by referring agencies, thus putting a strain on workshop finances in general.

When a vocational rehabilitation sponsored client enters extended employment, the workshop is required, in most States, to shoulder the costs of providing this individual with rehabilitation services such as counseling, psychological services, vocational reassessment, and work reevaluation. The amount and extent of rehabilitation services provided to the extended employment client is the responsibility of the sheltered workshop staff. The State agency can count the individual as a successful closure without assuming the responsibility for assuring that he receives adequate and appropriate rehabilitation services, nor reimbursing the sheltered workshop for the cost of providing these services—note GAO study.

The severe financial strain placed on the sheltered workshop because of this practice has a detrimental effect on its capability to remain a viable and solvent resource to the community. Because referring agencies are not reimbursing workshops for the hidden rehabilitation costs associated with extended employment, many workshops are unable to maintain adequate financial reserves from other sources to continue providing rehabilitation services. Their financial positions are considerably weakened because they are shifting funds received from other sources to cover rehabilitation costs, sources which are frequently less stable than the State VR agency. When external conditions occur that interfere with or otherwise diminish funds from their "other" sources of support, we see workshops cutting back on the number of professional staff they can support, and many may be forced to cut back on programs that might further increase the drain on their very limited resources.

Sheltered workshops receive financial support from three general areas. The Greenleigh study found that 53.9 percent from business and industrial income, 37.7 percent from fees and grants from referral and third party agencies, and 8.4 percent from direct and indirect support from the community and its organizations. This financial distribution of these resources affects the amount of income available to the workshop to pay clients for work performed. The greater the amount of funds from production, the more that can be returned to the client in wages for productive efforts. Any drain on these funds, obviously, will have an effect on this important issue of wages to clients.

The responsibility for recognizing that these rehabilitation costs do exist for clients in extended long-term employment falls on the State VR agencies, the Rehabilitation Services Administration, and the Congress. The Greenleigh study and the comprehensive needs study have stated that sheltered workshops are a tremendous resourcce to the Federal-State program of vocational rehabilitation, and they require adequate and equitable support for the services they render. In all fairness, we must recognize that State agencies are in a particularly difficult financial position because they are required to serve the more severely disabled clients; that is, those who have the least vocational potential and consequently the least likelihood of employment.

Despite this requirement to serve a population that requires costly and extensive services, State VR agencies have not received a corresponding increase in funding from Congress. Because of the impact of inflation, they are being asked to do more with much less, a particularly difficult task.

Over the years there have been several studies of various aspects of sheltered workshops, and some of them have been referred to in this testimony.

The U.S. Department of Labor has periodically studied sheltered workshops, concentrating on the wage administration aspect. The first major study was in 1967, following the first significant changes in the provision of the Fair Labor Standards Act regarding handicapped workers in sheltered workshops. In 1973, the Department of Labor began gathering data for another major survey of sheltered workshops. The initial study was published in June 1977 and concentrated on the workshops themselves. It was followed up by a survey and report, March 1979, on the clients or handicapped workers in sheltered workshops.

In passing the Rehabilitation Act of 1973, Congress mandated a study of the role of sheltered workshops. This study was conducted by Greenleigh Associates and was released in July 1975. Another study, released in June 1975, dealt with the service needs of the severely handicapped. It was prepared by the Urban Institute and is commonly known as the comprehensive needs study. One chapter was devoted to rehabilitation facilities.

Congress mandated yet another study involving wage payments in sheltered workshops. The 1977 amendments to the Fair Labor Standards Act established the Minimum Wage Study Commission to study the social, political, and economic ramification of the Federal Labor Standards Act. One of the 12 areas Congress targeted was the effect of the minimum wage or a subminimum wage on employment of the handicapped. The final report of the Commission is due before June 1981.

The Government Accounting Office has recently completed one study involving sheltered workshops—State rehabilitation agencies' failure to adequately reevaluate clients placed in workshops—and are in the process of conducting one on the economic impact of sheltered workshops.

The White House Conference on Handicapped Persons in 1977 also considered rehabilitating facilities and made several recommendations.

Although there have been many studies and many recommendations, little has become of any of them. In 1978, the Assistant Secretary for Planning and Evaluation began a program called training and employment services policies analysis—TESPA—to develop specific detailed proposals for changes in legislation, regulations, or administrative policy to improve employment and training programs for handicapped persons. Utilizing the previous studies and hearing, including one held by this committee 2 years ago, TESPA has identified the major issues dealing with sheltered workshops and is in the process of validating possible recommendations.

Following are some of the major findings identified by TESPA in its first year progress report, and I hope you will read that part of my statement.

We feel that any action this subcommittee might take or any action of other committees or Federal agencies should carefully consider these findings and recommendations.

Almost as soon as there were special provisions in the Fair Labor Standards Act for handicapped workers and sheltered workshops, there was an advisory committee on the sheltered workshops at the Department of Labor. This Committee, made up of handicapped persons, representatives of sheltered workshops, organized labor, and other interested persons, has provided input, advice, and assistance to the staff of the Department of Labor responsible for administering this special minimum wage program.

Among the accomplishments of the Committee were early studies of workshops and their wage policies, the first set—1944—of standards for the operation of workshops and homebound programs for handicapped persons, assisting the Department in developing regulations, providing input for the recent sheltered workshop study, and developing and distributing material to workshops on the subject of measuring productivity and costing contracts. One of the most important functions of the Committee has been to provide a forum for workshop representatives and representatives of the handicapped to discuss the wage issues and provide input to the Department of Labor.

The cost of the Advisory Committee was minimal. Many, if not most, of the attendees were from the Washington, D.C., area. It was certainly a cost-effective program. There were no additional salaries involved to the Department of Labor.

If we are to resolve the issues facing sheltered workshops, it is important to reestablish the Advisory Committee. Not only will it provide an important forum for the Department of Labor to have dialog, but Congress may want to mandate such a committee to work actively on developing increased productivity of handicapped workers in sheltered workshops and in devising better methods of measuring their productivity to make wage payments under section 14(c) as equitable as possible.

Conclusions and recommendations. There are a substantial number of blind and other visually impaired persons who would not have employment opportunities were it not for the subminimum wage provisions of section 14(c) of the Fair Labor Standards Act.

In Goodwill Industries alone there are more than 1,800 blind or visually impaired persons. Many of these persons have multiple handicaps, including mental retardation, mental illness, cerebral palsy, and various physical handicaps. Most of these persons' productivity is impaired by their disabilities. Some of them are very low functioning and can only work in a work activities center setting.

If there were not provisions allowing subminimum wages based on productivity, most of these persons could not be employed. Most Goodwill Industries do not have the financial ability to subsidize wages beyond actual productivity.

Certainly removing an entire disability from coverage of section 14(c) would be a substantive change and should not be undertaken without prior congressional approval.

The present system is certainly not perfect. Wages for handicapped persons in sheltered workshops are low. Arbitrarily raising the required minimum or removing one disability group, the blind, from the special provisions is not the answer. To take that course would only deny many severely handicapped persons one of the few work opportunities they have available.

We do not need additional income support for some handicapped individuals without forcing them out of the job market. Reasonable support is needed for nonprofit rehabilitation facilities providing sheltered employment. Technical assistance is needed for industrial programs, and eligibility for government procurement contracts under SBA is needed to provide more productive jobs for handicapped persons.

The Advisory Committee on Sheltered Workshops needs to be reestablished to give the Labor Department adequate input from workshops and consumers, and both Federal agencies—HHS, ED, and DOL—and Congress need to start implementing the recommendations of the many studies on sheltered workshops.

Goodwill Industries of America and its member Goodwill Industries across the country are ready and willing to provide this committee, the Department of Labor, or any other body any pertinent information, and to assist in any studies that might be undertaken.

I will be glad to answer any questions you may have.

[The prepared statement of Dean Phillips follows:]

PREPARED STATEMENT OF DEAN PHILLIPS, PRESIDENT, GOODWILL INDUSTRIES OF AMERICA

My name is Dean Phillips. I am President of Goodwill Industries of America.

Goodwill Industries of America represents 168 locally autonomous member Goodwill Industries in the United States.

Although Goodwill Industries workshops represent a small percentage of all sheltered workshops in the U.S., they represent 20 percent of the workshops providing regular programs (as opposed to work activities centers) and serve 41 percent of the clients in regular programs. We thing that because of the size and success of our programs, Goodwill Industries can serve as a good example of how the vocational rehabilitation program is functioning and how it can be improved.

There are two basic issues we would like to address today. One is the question concerning blind and other visually impaired persons in sheltered workshops and whether they should be accorded treatment different than other disability groups under Section 14(C) of the Fair Labor Standards Act.

The other issue is much broader. We think if the regulations and administration of Section 14(C) is to be questioned then the whole system should be scrutinized and not just a small segment. The alternatives to the present system should also be addressed before any conclusions or recommendations are made.

At the outset I want to make it clear that we do not feel that subminimum wages are adequate or provide sufficient income for a reasonable standard of living. We are not here only to defend the present system. We also want to explore other sources of income for disabled persons and means of increasing wages in our workshops.

BLIND WORKERS IN GOODWILL INDUSTRIES

In 1979 Goodwill Industries provided services and/or employment to more than 1,800 blind and visually impaired persons. This is a small but significant number of persons. These are persons whose primary disability is visual. Most of these 1,800 individuals are multiply handicapped. These numbers do not reflect how many of the more than 60,000 persons served or employed in Goodwill Industries may have visual impairments in addition to their primary disabilities. The types of handicapping conditions these persons have in addition to their visual problems is varied. A telephone survey to a cross section of our membership revealed that most blind or visually impaired persons served or employed by Goodwill Industries have secondary handicapping conditions. These secondary disabilities generally follow the pattern of primary conditions served in a Goodwill Industries. The majority are mental retardation, mental illness or developmental disabilities such as cerebral palsy. These conditions by themselves constitute severe handicaps and barriers. Coupled with blindness or substantial visual impairment, these individuals constitute the most severly handicapped.

The productivity of these persons is quite often extremely low. Some had productivity ratings as low as 10% and there were a substantial number in the 25 to 50% bracket.

Section 14(C) of the FLSA is based on the premise that a physical or mental handicapping condition may affect a person's productive ability and Section 14(C) allows less than the minimum wage only when that correlation can be shown and documented. Blindness should be treated no differently than other handicapping conditions for this purpose. If a person can produce at so called normal levels than there is no need for Section 14(C). Although a high percentage of blind persons can produce near or above minimum wage level, there are still a significant number of blind or visually impaired persons (including the multiply handicapped) who for various reasons cannot produce at or near that productivity level. Should we deny employment opportunities for those persons?

We feel that proper training, good management, steady contracts and modern production methods and equipment are important factors in increasing productivity of workers in our workshops. When we address the second issue of our testimony we will discuss how these factors may be enhanced.

Congress had admittedly given the blind a substantial break in the disability test and earnings allowance for SSI (Supplemental Security Income) and SSDI (Social Security Disability Insurance). The differences between the blind and other disabilities in these social security laws is not because of any unique productive capabilities of the blind but rather a very effective job of political persuasion by groups such as the NFB. Congress is now considering legislation which recognizes that work disincentives need to be removed from SSI and SSDI for all disability groups.

To arbitrarily mandate the full minimum wage for these individuals would do nothing more than deprive many of them of any work experience or earned wages. To bring many of these multiple handicapped blind persons to the full minimum wage would be impossible for most workshops. There are few, if any, states that provide any substantial subsidy for these persons through the workshop.

WAGES IN SHELTERED WORKSHOPS

The issue that should be discussed is the issue of adequacy of wages for handicapped persons in sheltered workshops; whether they be blind, mentally retarded, deaf or paralyzed and whether it be in a workshop for the blind, Goodwill Industries, Easter Seal or Association of Retarded Citizens.

In the past, sheltered workshops were looked at as charities which provided long-term sheltered employment for physically handicapped persons. In most instances, this was true. That picture has changed dramatically in the past few years. Both the people served by sheltered workshops and the services they provide have changed. These changes raise many serious and challenging issues for sheltered workshops.

People with physical handicaps and less severe mental handicaps are being integrated into society at much earlies stages than ever before. Thanks to the efforts of parents, the courts, and legislators, handicapped children can now receive an education, often in regular schools, that prepares them for meaningful and often self sustaining lives. The physically handicapped are more mobile now than ever before. Removal of architectural barriers, motorized wheelchairs, new engineering techniques for many jobs, and the rapid development of jobs in electronics and data processing have opened many new opportunities for the physically handicapped.

We have now largely turned our efforts toward people with less visible handicaps. The mentally retarded, emotionally disturbed, and developmentally disabled not long ago remained neglected in institutions. They were not considered to have much vocational potential. With new training techniques, more sophisticated evaluation systems and concerted placement efforts we know that these people can benefit from the rehabilitation programs and placement services in sheltered workshops. Admittedly, it has not been an easy task. The training and services must be more sophisticated and often more expensive facilities and more professional staff are needed.

Goodwill Industries can serve as a good example. In 1951, 85 Goodwill Industries reported on 7,356 employees. Of these employees, 5,064 or 69% were physically handicapped. Only 16% had mental or emotional handicaps. In 1951, rehabilitation services were not reported. At that time, Goodwill Industries served primarily as a source of employment.

Contrast 1951 with 1979. 144 Goodwill Industries reported employment and rehabilitation services to over 60,000 clients. Over 60% of those persons had mental or emotional handicaps or were classified as developemntally disabled. Only 20% had physical disabilities and fewer were orthopedic. These figures deal only with primary disabilities. Many of those with physical disabilities had a secondary mental or emotional disability.

In 1951 the primary service offered in sheltered workshops was employment. Today Goodwill Industries provide medical and nursing services, psychological services, social services, educational programs, personal and social adjustments, job readiness and placement as well as the vocational services of evaluation, adjustment and training.

In 1973, the Rehabilitation Act mandated a priority for individuals with the most severe handicaps. These are handicaps that require multiple services over an extended period of time. This priority has had a very real impact on the programs and services of sheltered workshops.

The present client population of sheltered workshops is made up of the more severely handicapped persons with the least vocational potential. These individuals are the most difficult to train and to place in outside competitive employment.

This change in the nature of the clients we are serving, coupled with a new emphasis on the more severely handicapped, a greater consumer involvement in the rehabilitation process, and the increasing complexities of operating a sheltered workshop in today's economic environment, have created many important issues which we must face and deal with if we intend to continue as a viable component in vocational rehabilitation.

The Fair Labor Standards Act, since its inception in 1938, has provided special dispensation for handicapped workers whose productivity is limited by the handicapping condition. The intention of this provision has always been to provide job opportunities for handicapped persons where there otherwise would not be such opportunities. Clients in sheltered workshops whose earning capacity is impaired by a mental or physical handicap are paid wages which are commensurate with wages paid non-handicapped workers for the same type, quality and quantity of work. Wages below the federal minimum wage can only be paid when the person's productive ability falls below the minimum wage level and only when proper certification has been obtained from the U.S. Department of Labor.

Sheltered workshops do not arbitrarily set low wages for handicapped employees. The productivity of an individual is carefully measured at certain intervals to determine the proper rate of pay. The Department of Labor requires these reviews be conducted and documented by time studies or other measurement.

Although there is no minimum set under certain certificates (WAC and Evaluation and Training) and the "floor rate" for regular programs may be as low as half of the regular minimum wage, each individual is paid according to the individual's actual productivity on the job.

The special certificates are issued by the Department of Labor on an annual basis and the Department has stepped up the periodic review of workshops to insure their compliance with the law and regulations. To assist workshop administrators Goodwill Industries of America has developed a 150 page Wage and Hour Manual for sheltered workshops. We have made this publication available not only to our members but to all other workshops that might need some guidance in that area. We also encourage other workshops to participate in our seminars that deal with wage and hour policies and practices.

Obviously there is a gap, and a substantial one, between what many handicapped persons earn in a sheltered workshop and what one would consider a "living wage."

The question we must address is what to do about it.

The issue, the adequacy of wages for handicapped clients in sheltered workshops cannot be answered by arbitrarily raising the minimum wage for those people. We are certainly in favor of paying our handicapped clients the minimum wage, and more, when and where they can earn it. But sheltered workshops must operate in the real world. When workshops face wage increases due to new minimum wage levels the workshop must face the same problem that businesses face. They must 1) increase efficiency, 2) obtain more productive workers or 3) raise the price of the goods or services produced. Certainly the latter is done by the workshops but it is rarely sufficient to cover the total increase. To get more productive and efficient clients often means getting clients with less severe handicaps. This would fly in the face of the basic purpose of the workshop.

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SUPPLEMENTAL SECURITY INCOME

In 1974, Supplemental Security Income was introduced under the Social Security system to provide benefits for the blind, aged and disabled. Many thought that this would be the answer to the problem of inadequate incomes for disabled persons working in sheltered workshops. This, however, has not been the case. In many instances SSI starts to be reduced. This amount varies from state to state and depends on the amount of income from SSI. Generally the amount would be less than $200 a month. Many people on SSI would rather not take the chance of

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INDUSTRIAL PROGRAMS

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As a social agency, a sheltered workshop uses its industrial and commercial activities as tools for the rehabilitation of handicapped people. The resources that private industry would normally employ to generate a profit are turned into human services. The efficiency of industrial and commercial activities is sacrificed in a workshop, contrary to good profit-oriented business practices, to accommodate the needs and functional limitations of the handicapped. Organizational stability is generally attained by maintaining a very delicate balance of efficiently serving as many clients as possible while maintaining industrial and commercial activities effectively enough to support the organization and other human services.

As a business enterprise, sheltered workshops operate in an economic environment that is created by businesses operating for profit and in competition with one another for markets, capital resources, labor, and commodities. To operate and survive in such an environment, sheltered workshops must adopt the business position, policies, and practices which are dictated by the economic environment. Put in more specific terms, a sheltered workshop must use its resources in a manner which maximizes the efficiency of its services while maintaining a sound financial position consistent with the reality of the world in which it operates to assure that it remains a viable source of human services to people.

The Greenleigh Study pointed out that almost 55% of workshop revenues come from business and commercial activities. We cannot ignore the fact that we must employ a practical business attitude toward the maintenance of this element of our program which provides the financial backbone of our varied rehabilitation and vocational training activities. We must rely on the workshop administrator to control a complex, perhaps multimillion dollar program which employs several hundred people, in a fluctuating and often uncertain economy. Add to these economic uncertainties the fact that our labor force is made up of individuals with the lowest potential for competitive employment because of their disabling conditions. We must balance the non-productive skill training and work adjustment programs with production departments that are rarely, if ever, fully able to make up the difference. Add to this already complicated and complex management situation the requirements of the Wage and Hour regulations, case service management and record keeping, quality control and production standards, public relations, community planning, etc.

Workshops need assistance in developing the business skills and acumen needed to provide the types of jobs to our handicapped employees that have greater income potential. At the present time, sheltered workshops receive little help from the state or federal government in the area of industrial development. There is the Javits-Wagner-O'Day Act which has provided many jobs to the severely handicapped but that program continues to give a preference to blind workshops and several private trade associations have taken extraordinary steps to prevent many products from being included in the program.

Although many of our workshops participate in Javits-Wagner-O'Day, workshops also need access to other government contracts. The Small Business Administration has opposed the participation of workshops in the small business set-asides for federal government procurement. For one year, FY1979, workshops were eligible. During that year workshops successfully bid on contracts totalling $1.1 million out of a multi-billion dollar procurement. Congress renewed this authority last year but final passage has been delayed for reasons unrelated to this program.

Technical advice in our industrial programs is badly needed. We are not considered eligible for this type of help from SBA even though Congress has long provided for SBA loans to workshops. There used to be a limited amount of technical assistance from the Rehabilitation Services Administration but that was geared primarily for rehabilitation programs and it has been temporarily suspended altogether.

Many have the misconception that workshops receive huge sums from government grants that could be used to improve facilities and programs. The government funding received by workshops is almost exclusively for case services (specific rehabilitation services to individual persons) or in the form of staff support for rehabilitation programs, not industrial programs. Even then, the costs for these rehabilitation programs often exceed the income and the programs must be subsidized.

REHABILITATION PROGRAMS

One of the most important and pressing problems facing sheltered workshops today centers around the issue of long-term employment of severely handicapped persons and the resulting "hidden rehabilitation costs" associated with extended employment. The *Greenleigh Study* was quick to discover that when sheltered workshops provide renumerative employment they are also providing some rehabilitation, and thus incurring unrecognized costs of that rehabilitation over and beyond the basic production costs. *Greenleigh* further pointed out that these "buried or hidden" rehabilitation costs are not currently being reimbursed by referring agencies thus putting a strain on workshop finances in general.

When a vocational rehabilitation sponsored client enters extended employment, the workshop is required, in most states, to shoulder the costs of providing this individual with rehabilitation services such as counseling, psychological services, vocational reassessment and work re-evaluation. The amount and extent of rehabilitation services provided to the extended employment client is the responsibility of the sheltered workshop staff. The state agency can count the individual as a successful closure without assuming the responsibility for assuring that he receives adequate and appropriate rehabilitation services, nor reimbursing the sheltered workshop for the cost of providing these services (note GAO study).

The severe financial strain placed on the sheltered workshop because of this practice has a detrimental effect on its capability to remain a viable and solvent resource to the community. Because referring agencies are not reimbursing workshops for the "hidden rehabilitation costs" associated with extended employment, many workshops are unable to maintain adequate financial reserves from other sources to continue providing rehabilitation services. Their financial positions are considerably weakened because they are shifting funds received from other sources to cover rehabilitation costs, sources which are frequently less stable than the state VR agency. When external conditions occur that interfere with or otherwise diminish funds from there "other" sources of support, we see workshops cutting back on the number of professional staff they can support, and many may be forced to cut back on programs that might further increase the drain on their very limited resources.

Sheltered workshops receive financial support from three general areas. The *Greenleigh Study* found that 53.9% from business and industrial income, 37.7% from fees and grants from referral and third party agencies; and 8.4% from direct and indirect support from the community and its organizations. This financial distribution of these resources affects the amount of income available to the workshop to pay clients for work performed. The greater the amount of funds from production, the more that can be returned to the client in wages for productive efforts. Any drain on these funds obviously will have an effect on this important issue of wages to clients.

The responsibility for recognizing that these rehabilitation costs do exist for clients in extended long-term employment falls on the state VR agencies, the Rehabilitation Services Administration and the Congress. The Greenleigh Study and the Comprehensive Needs Study have stated that sheltered workshops are a tremendous resource to the federal-state program of vocational rehabilitation, and they require adequate and equitable support for the services they render. In all fairness, we must recognize that state agencies are in a particularly difficult financial position because they are required to serve the more severely disabled clients, that is, those who have the least voactional potential and consequently the least likelihood of employment.

Despite this requirement to serve a population that requires costly and extensive services, state VR agencies have not received a corresponding increase in funding from Congress. Because of the impact of inflation, they are being asked to do more with much less, a particularly difficult task.

STUDIES OF SHELTERED WORKSHOPS

Over the years there have been several studies of various aspects of sheltered workshops and some of them have been referred to in this testimony.

The U.S. Department of Labor has periodically studied sheltered workshops, concentrating on the wage administration aspect. The first major study was in 1967 following the first significant changes in the provision of The Fair Labor Standards Act regarding handicapped workers in sheltered workshops. In 1973 The Department of Labor began gathering data for another major survey of sheltered workshops. The initial study was published in June 1977 and concentrated on the workshops themselves. It was followed up by a survey and report (March 1979) on the clients or handicapped workers in sheltered workshops.

In passing The Rehabilitation Act of 1973 Congress mandated a study of the role of sheltered workshops. This study was conducted by Greenleigh Associates and was released in July 1975. Another study was released in June 1975 that dealt with the service needs of the severely handicapped. It was prepared by The Urban Institute and is commonly known as the Comprehensive Needs Study. One chapter was devoted to rehabilitation facilities.

Congress mandated yet another study involving wage payments in sheltered workshops. The 1977 Amendments to The Fair Labor Standards Act established the Minimum Wage Study Commission to study the social, political and economic ramification of the FLSA. One of the twelve areas Congress targeted was the effect of the minimum wage or a subminimum wage on employment of the handicapped. The final report of the commission is due before June 1981.

The Government Accounting Office (GAO) has recently completed one study involving sheltered workshops (state rehabilitation agencies failure to adequately re-evaluate clients placed in workshops) and are in the process of conducting one on the economic impact of sheltered workshops.

The White House Conference on Handicapped Persons in 1977 also considered rehabilitation facilities and made several recommendations.

Although there have been many studies and many recommendations little has become of any of them. In 1978 the Assistant Secretary for Planning and Evaluation began a program called "Training and Employment Services Policies Analysis" (TESPA) to develop specific detailed proposals for changes in legislation, regulations or administrative policy to improve employment and training programs for handicapped persons. Utilizing the previous studies and hearing, including one held by this committee two years ago, TESPA has identified the major issues dealing with sheltered workshops and is in the process of validating possible recommendations.

Following are some of the major findings identified by TESPA in its first year progress report:

> The DOL Studies found that the sheltered workshops seem to be moving in two separate directions simultaneously in providing programs -- the furnishing of intensive transitional services to higher functioning handicapped persons in evaluation and training programs, and the provision of extended services for the most severely handicapped persons for whom work may be only one part of a comprehensive therapeutic program in a work activities center or developmental center.
>
> The Greenleigh Study made two basic assumptions: (1) that most handicapped individuals are work oriented - that they aspire to be self-supporting, to pursue lives as similar to those of the non-disabled as possible, and to eventually find employment in the competitive labor market and (2) the workshop's goal is to facilitate attainment of such objectives by the disabled. Greenleigh identifies three major roles for the typical workshop:
> (1) As a rehabilitation agency providing services to reduce the problems of the severely disabled client,
> (2) As a placement readiness program preparing the severely handicapped client for later placement into competitive employment, and,
> (3) As a provider of sheltered remunerative employment.
> In the role as employment provider, Greenleigh found two distinct styles of sheltered workshop operation -- as a rehabilitation-oriented workshop and as a business-oriented workshop. The rehabilitation workshop provided a full range of vocational evaluation, work adjustment, training, and supportive services, qualifying for priority funding as a transitional or adjustment center. The business-oriented workshop provided primarily employment with limited training and emphasis on procurement of industrial contracts rather than rehabilitation services. This type of program generally has low priority for funding from the State rehabilitation agency.
>
> Urban Institute in its comprehensive study of the severely handicapped, reported that "rehabilitation facilities play a key role in service provision and evaluation of severly handicapped individuals. Furthermore, workshops are often the major source of skill training and, too often, the only source of jobs." The report concluded that an increased number of rehabilitation facilities and added support to facilities are essential to the provision of services to all of the severely handicapped.

Participants in the White Conference on Handicapped Individuals found that sheltered workshops met a useful need and recommended:

1. (1) The establishment of neighborhood sheltered workshops to assist in maintaining handicapped persons in society,
2. (2) The operation of work activity centers in public schools, recreation departments, and day care agencies to provide the advantage of mainstreaming severely handicapped children with their peers.
3. (3) Utilization of work activity centers as an outlet for gainful activity, socialization, and life enrichment for the severely disabled persons who cannot participate in regular sheltered workshops or similar programs.

All of the studies and conferences seem to agree on certain fundamental thrusts: Workshops perform an important role in meeting the needs of severely disabled persons, severity of disability is the most common reason for failure of a provider to serve a disabled person, workshops have substantial financial problems, and action must be taken to improve the income of severely disabled persons.

We feel that any action this subcommittee might take or any action of other committees or federal agencies should carefully consider these findings and recommendations.

ADVISORY COMMITTEE

Almost as soon as there were special provisions in The Fair Labor Standards Act for handicapped workers and sheltered workshops, there was an Advisory Committee on Sheltered Workshops at the Department of Labor. This Committee, made up of handicapped persons, representatives of sheltered workshops, organized labor and other interested persons, has provided input, advice and assistance to the staff of the Department of Labor responsible for administering this special minimum wage program.

Among the accomplishments of the Committee were early studies of workshops and their wage policies, the first set (1944) of standards for the operation of workshops and homebound programs for handicapped persons, assisting the Department in developing regulations, providing input for the recent Sheltered Workshop Study, and developing and distributing material to workshops on the subject of measuring productivity and costing contracts. One of the most important functions of the Committee has been to provide a forum for workshop representatives and representatives of the handicapped to discuss the wage issues and provide input to the Department of Labor.

The cost of the Advisory Committee was minimal. Many, if not most, of the attendees were from the Washington, D.C. area. It was certainly a cost effective program. There were no additional salaries involved to the Department of Labor.

If we are to resolve the issues facing sheltered workshops it is important to re-establish the Advisory Committee. Not only will it provide an important forum for the Department of Labor to have dialogue but Congress may want to mandate such a committee to work actively on developing increased productivity of handicapped workers in sheltered workshops and in devising better methods of measuring their productivity to make wage payments under Section 14(C) as equitable as possible.

CONCLUSIONS AND RECOMMENDATIONS

There are a substantial number of blind and other visually impaired persons who would not have employment opportunities were it not for the special sub-minimum wage provisions of Section 14(C) of the Fair Labor Standards Act.

In Goodwill Industries alone there are more than 1800 blind or visually impaired persons. Many of these persons have multiple handicaps including mental retardation, mental illness, cerebral palsy and various physical handicaps. Most of these person's productivity is impaired by their disabilities. Some of them are very low functioning and can only "work" in a "work activities center" setting.

If there were not provisions allowing sub-minimum wages based on productivity most of these persons could not be employed. Most Goodwill Industries do not have the financial ability to subsidize wages beyond actual productivity.

Certainly removing an entire disability from coverage of Section 14(C) would be a substantive change and should not be undertaken without prior Congressional approval.

The present system is certainly not perfect. Wages for handicapped persons in sheltered workshops are low. Arbitrarily raising the required minimum or removing one disability group, the blind, from the special provisions is not the answer. To take that course would only deny many severely handicapped persons one of the few work opportunities they have available.

We do need additional income support for some handicapped individuals without forcing them out of the job market. Reasonable support is needed for nonprofit rehabilitation facilities providing sheltered employment. Technical assistance is needed for industrial programs and eligibility for government procurement contracts under SBA is needed to provide more productive jobs for handicapped persons.

The Advisory Committee on Sheltered Workshops needs to be re-established to give the Labor Department adequate input from workshops and consumers and both federal agencies (HHS, ED and DOL) and Congress needs to start implementing the recommendations of the many studies on sheltered workshops.

Goodwill Industries of America and its member Goodwill Industries across the country are ready and willing to provide this Committee, the Department of Labor or any other body any pertinent information and to assist in any studies that might be undertaken.

I will be glad to answer any questions you may have.

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Mr. **Beard**. What would you do in a case where someone in a workshop is doing very well on his job and his production is high, but he is not being paid the minimum wage? The Government does not have enough inspectors to go around, as was indicated earlier. How do you bring justice to that person who should be getting the minimum wage?

Mr. **Phillips**. I don't think it would be appropriate, nor would any responsible workshop management look solely to the Department of Labor to police the establishment of his wage rates. If his wage rates are appropriately set and related to the productivity of the worker to the pay of a worker working on that same job under normal conditions, then the wage should be fairly set and may or may not be less than the minimum wage. It may very well be over.

Mr. **Beard**. That is true. On the other hand, someone is working, let's say, in a jewelry shop, and of course I would be familiar with them in Rhode Island. It is a big part of our employment. All employees get at least a minimum wage and more, depending on their production if they are doing piecework. That, however, is not the case in a workshop. It could be below minimum wage on up.

Mr. **Phillips**. Well, it should not be below minimum wage on up if the wages are appropriately set and the wages related to the normal worker producing and the normal product of the same type and kind are taken into consideration. If the normal wage on the outside, of a nonhandicapped worker, would be in excess of that paid to the handicapped worker, the handicapped worker should have his wage rate related productively to the wage rate of the normal worker. So, depending on what the normal rate was on the outside or in competitive employment, unless it was a very normal low wage rate, he should not be making less than the minimum wage.

Mr. **Beard**. That is true, but what guarantee do we have that the blind worker who makes that product just as well and as quickly as a sighted worker is going to receive the minimum wage? There is no guarantee.

Mr. **Phillips**. Mr. Chairman, what happens in this case, a standard is set for the number of items that would have to be made per hour, whether in regular industry or a jewelry stop. There is a standard for the number of items to be produced. That is what workshops have to compare against, something like the pillowcases or the helmet liners. The standard might be 50 per hour with the quality standard involved. The workshop has to use that standard, but yet the people, because of their handicap, may only be able to produce 25 per hour and that is what determines the fact that they will be paid a minimum wage, the fact that they cannot produce at the same level as the nonhandicapped person.

Mr. **Beard**. Say 50 is the magic number for helmet liners, and blind workers are producing 50.

Mr. **Harles**. Then the workers should be getting the full minimum wage. I have 40 people in the room here today attending a 2-day wage and hour seminar helping us instruct our personnel people and industrial specialists. We hold that seminar at least twice a year and have at least 50 to 60 people, invite other people to participate. We have a 150-page manual just on wage and hour administration in sheltered workshops.

Mr. **Beard**. There has been some discussion that in some cases the workshops have held people back for one reason or another. What is your response to that criticism?

Mr. **Harles**. If they do it in Goodwill Industries, it does not have the blessing of our national office. Again, we give every instruction we possibly can to prevent that type of thing from happening. That is the only answer I can give you. I cannot say that it does not happen in some workshops; I really don't know personally. I am an attorney and I specialized in wage and hour type work and in personnel administration and I give consultations to our facilities and help do review of their programs and things to help insure that this type of thing does not happen.

Mr. **Beard**. Mr. Stephens?

Mr. **Stephens**. Thank you, Mr. Chairman.

Of your production employees, how many are visually impaired and have visual impairment as their only handicap?

Mr. **Harles**. Last year lists approximately 1,800 as having visual impairment as their primary disability. That is out of approximately at that time 60,000. Roughly, a small percentage for us.

Mr. **Stephens**. Is that broken down further?

Mr. **Harles**. I did do a quick telephone call type thing to some of the ones who had more of these persons than some of the other workshops involved and they said, for the most part, these were multihandicapped persons; they had a secondary handicap.

Mr. **Stephens**. What is the wage rate being paid to somebody that has a secondary handicap?

Mr. **Harles**. I don't have it broken down by disability.

Mr. **Stephens**. Your organization does not have anything to indicate the spread of wages, from high to low?

Mr. **Harles**. The type of figures I could give you would range from extremely, severely disabled in the work activity center, where the productivity is 10 percent or so, on up to many of our people who are handicapped who make above the minimum wage.

Mr. **Stephens**. What sort of statistics do you have?

Mr. **Harles**. The statistics that we keep do not break it down by disability. I don't have any average figures per type of disability.

Mr. **Stephens**. Don't you have to provide the Department of Labor annually with figures?

Mr. **Harles**. The statistics that we gather from all of our Goodwill Industries is through that type of information. If you wanted information from a particular Goodwill, yes. In fact, the applications that they turn in to the Department of Labor in reviewing their special minimum wage certificate every year does include information on specific individuals by disability, but I don't have that information with me.

Mr. **Stephens**. Does your organization collect and analyze those data to determine whether or not there is an average wage rate for the visually impaired?

Mr. **Harles**. No.

Mr. **Stephens**. I find that incredible, frankly, particularly in light of all the push for legislation. It seems to me that your organization and the other workshops which are being put on the defensive in this area would have come up with statistics showing that their wage rates are above the minimum wage or near the minimum wage.

Mr. HARLES. We are trying to develop a system that will give us some of that information, but it is a rather complicated process when you have the size of our organization.

Mr. STEPHENS. When do you anticipate that information would be available for your organization?

Mr. HARLES. Depending on what type of information you would desire, because of the relatively small number of visually handicapped, I could probably gather information on that question in several weeks.

Mr. STEPHENS. I would appreciate it. Again, with respect to the 1,800 employees who have visual impairment as a primary disability, what would be the average wage rate that is paid, and also make a breakdown as to the maximum wage and the lowest wage paid.

Looking to the placement situation, what is the placement rate of visually impaired employees into the competitive market by the organization?

[The material referred to was not submitted for inclusion in the record.]

Mr. HARLES. The annual statistic report that we gather does not break down the places by specific disability. We get raw figures from our organization. They just give totals.

Mr. STEPHENS. What do your raw figures indicate as to placement?

Mr. HARLES. The last year that we had figures for was 10,000 people were placed.

Mr. STEPHENS. That is total placement?

Mr. HARLES. Yes.

Mr. STEPHENS. Is that out of 60,000?

Mr. HARLES. Of the 60,000 people that we serve, we don't provide placement service to all of them. A lot of them are sent there just for evaluation or just for skills training and they might go back to the State for eventual placement where there might be additional services in that facility, but out of the 60,000 people that we serve for any services, 10,000 were placed into competitive industry.

Mr. STEPHENS. I am assuming, and correct me if I am wrong, that you have a group of production employees who could work in the competitive labor market presently that are not able to do that, and you have responsibility to train them and do what needs to be done to place them in the competitive labor market. What is the total universe of that production group, and of that universe, what percentage is placed annually? Can you answer that?

Mr. HARLES. The program could vary quite widely in terms of kind of service they could provide. The ones that do have specific placement related services, you have to remember that the State agencies usually consider it their responsibility to do the placement and they will not fund placement personnel positions in the workshops. We have some programs, one of them is called projects with industry, through RSA and through the Department of Labor where we are able to hire placement personnel, specialists in placement. In those facilities the placement rate is extremely high, whereas in a program where we are not able to hire proper staff or the State insists on doing the placement work, the placement, of course, would be somewhat lower.

Mr. STEPHENS. Is there a high rate of return of employees from private industry back into a Goodwill workshop? The reason I raise that point is that I read some statistics somewhere where a number of employees that were placed eventually returned within a year or so. I was wondering whether you have any statistics on that.

Mr. HARLES. The PWI project is a relatively low return because in that case we worked specifically with the business. We get them involved in the advisory committee to identify jobs, to identify training levels needed. So you are not training people for nonexistent jobs and you have a close working relationship. In those cases, the retention rate has been, I believe—the initial placement rate has been in excess of 75 percent with only a relatively small 5, maybe 10 percent of that number having to return to the facility for either further training or who are not quite ready for that job or something of that sort.

Mr. STEPHENS. Thank you very much.

Mr. BEARD. That completes this testimony.

Mr. Sanders, do you have a prepared statement?

Mr. SANDERS. Mr. Chairman, I have submitted a written statement and request that it be placed in the record.

Mr. BEARD. It certainly will. You may proceed to summarize your remarks.

[The prepared statement of Ralph W. Sanders follows:]

PREPARED STATEMENT OF RALPH W. SANDERS, PRESIDENT, BLIND INDUSTRIES AND SERVICES OF MARYLAND

I am pleased to have this opportunity to give these remarks before this Hearing in support of the concept of equal treatment for blind workers under the Fair Labor Standards Act as provided for in H.R. 3764.

Blind Industries and Services of Maryland has paid all production employees at least the Federally established minimum wage since July 1, 1976. Our experience during this period proves that minimum wage payment is a good business practice in the Sheltered Workshop environment. During the period since 1976, we have experienced substantial growth in production and sales. More importantly, we have experienced per person productivity increases which exceed standards in American industry.

I believe that the example of Blind Industries and Services of Maryland is applicable to other workshop programs for the blind since there is no particular characteristic about our agency which sets it uniquely apart from other similar programs. There are now several other similar agencies paying at least the Federally established minimum wage to all production employees.

The fact that a majority of the Sheltered Workshop Programs for the blind still rely on the sub-minimum wage provisions does not prove that they cannot meet the minimum wage standards. It proves only that when given the alternative, management will often take the path of least resistance.

Before proceeding with my analysis of the minimum wage issue, I wish to advise this Committee of several recent developments which I believe are relevant to these proceedings.

The Annual Sales Meeting of the National Industries for the Blind, involving all the Sheltered Workshops for the Blind which are affiliated with the National Industries for the Blind, was held during May 4 - 8, 1980 in San Diego, California.

More than half of the time spent in full session with all program representatives present was devoted to topics other than sales or business management. In fact, the major portion of the opening session was taken up by explanations that the major threat to all programs for the blind was the National Federation of the Blind. The general thrust of the comments was that this element in the blind community had to be eliminated as a factor.

This theme was followed up, late on Monday, May 5, when Joseph Larkin, President of the General Council of Workshops for the Blind and Executive Director of the Industrial Home for the Blind in New York, and Austin Scott, Executive Director of the Dallas Lighthouse for the Blind of Dallas, Texas, confronted me to inform me that there was going to be a concerted action against the National Federation of the Blind, Blind Industries and Services of Maryland, and any agency which dared to be different, during the next two (2) years. It was suggested that a campaign to destroy Dr. Kenneth Jernigan, President of the National Federation of the Blind, would be launched. I was told that the permission to that organization to raise funds in the State of New York would be withdrawn within six (6) months. To make this possible requires a reversal of position by various New York regulatory agencies.

I was also advised that my position as President of Blind Industries and Services of Maryland would be directly attacked. It seems that they were particularly bothered by the minimum wage stand of Blind Industries and Services of Maryland, and wanted to discredit our record to lessen its impact.

While this account is not a direct quote, it does reflect the threatening tone of our discussion. I bring it to your attention because I think it provides insight into the nature of the disagreement you will hear during the next two (2) days. It is regrettable that an issue so basic as wage rates for production employees cannot be reviewed on merit, but must be reduced to a struggle to destroy individuals.

My remaining remarks will be devoted to an analysis of the experience of Blind Industries and Services of Maryland, as well as an analysis of modern management techniques in the appropriate areas. I will examine the consequences of this analysis on the issues before you.

My analysis can be divided into four (4) basic areas as reflected in the following four (4) summary statements:

1) The piece rate payment system is not cost effective and not applicable to the workshop environment.

2) Wage payment is a positive factor in expanding production capacity on the part of the labor force; conversely, sub-minimum wage payment is a negative factor.

3) Competent management will find methods for being profitable regardless of congressionally established minimum wage payments.

4) The final test of the efficiency of the manufacturing operation is its management competence, not the overall efficiency factors of this production force.

Before expanding on these four (4) major points, I want to establish the historical background of Blind Industries and Services of Maryland in achieving the ability to pay all production employees at least the Federally established minimum wage.

The agency was established in 1908 by the Maryland General Assembly for the purpose of providing employment and training opportunities to the adult blind of Maryland. Over the years programs have expanded to include three (3) service delivery divisions. The Industries Division is the traditional, workshop section of the program. The Rehabilitation Division provides educational, vocational, rehabilitation, and extensive social service programs. The Vending Facilities Division operates the Maryland Blind Vending Facilities Program.

The agency receives an annual state appropriation amounting to approximately 16% of its total income. The appropriation is used to fund the multi-service programs. In this regard, Blind Industries and Services of Maryland is no different than all other workshop programs. While it is true that the private, non-profit workshops do not receive an annual appropriation, it is equally true that they receive substantial annual income in the form of client fees from the State Vocational Rehabilitation agencies, facility grants for the purchase of buildings and equipment and public contributions and bequests. A review of the network of the private, non-profit workshop agencies reveals the extent to which the contribution and bequests factor underwrites their programming.

It should also be noted that Blind Industries and Services of Maryland has reduced its subsidy provided to the Industries Division from State funds by more than 50% while more than doubling wages paid to production employees.

The Industries Division has established, and currently operates, manufacturing facilities in Baltimore, Cumberland, and Salisbury, Maryland. These facilities engage in a full line of production activity, comparable to other workshops for the blind around the nation; including the manufacture of more than thirty (30) production items, as well as sub-contract work for private industry. Principal customers include Federal agencies within the scope of Javits-Wagner-O'Day Act, State agencies covered by the State Use Law and private and commercial customers.

Throughout most of its history, Blind Industries and Services of Maryland's Industries, a workshop program, had been a traditional certificated, sub-minimum wage workshop. During the period from 1972 to 1975, the agency was under extremely poor management which resulted in the development of the serious financial instability. It should be noted that it was during this period of time that the agency was receiving the largest amount of Federal and State funds it has ever received and while it was paying production employees as little as 51¢ per hour. Year-round employment for blind production employees was extremely rare.

Early in fiscal year 1976, the Board of Trustees was reorganized and given the responsibility of establishing financial stability for the agency. The Board of Trustees, gubernatorially appointed, establishes policies governing the operation of the agency and employs the management staff. In one of its first major policy decisions, the Board of Trustees determined that effective July 1, 1976, no production employee of Blind Industries and Services of Maryland would receive less than the Federally established minimum wage.

At the time of the decision, the agency held facility certificates from the United States Department of Labor for all three (3) manufacturing facilities and a large number of individual certificates permitting even lower wage rates. The average hourly wage was $1.52.

Since July 1, 1976, no production employee has received less than the Federally established minimum wage, including any person in a work activity program, and all certificates have been set aside. The average hourly wage has increased to a current level of $3.42 and production employees receive a fringe benefit package amounting to more than 29% of wages.

The increase in hourly wages directly parallels a dramatic increase in total production. Attachment II outlines the year by year growth of the Industries Division as measured in production and sales. During the last fiscal year, production employees at Blind Industries and Services of Maryland achieved a 27% per person productivity increase well in advance of the average for American industry. It should also be noted that 46% of all production employees are severely, multi-handicapped blind persons.

When new management was brought into the agency in fiscal year 1976, it had a clear directive from the Board of Trustees that it must operate the Industries Program in a fashion which would permit minimum wage payments, while making substantial financial recovery from the abuses of past management. To achieve this objective, the agency turned to the best techniques of modern American management.

All product lines and markets were evaluated to determine profitability and potential profitability. Production lines were reviewed to determine the efficiency of the industrial engineering design, manufacturing techniques, equipment assignment and the skills inventory of production employees. Management techniques were assessed to determine cost effectiveness of all aspects of the operation.

Short and long range plans were developed to upgrade the Industries Program in all areas. Product lines were dropped, altered and added. Production lines were adjusted, production employees reassigned, and a positive training program for production and management employees was initiated.

Let me reiterate that all of this had to be accomplished with the specific understanding that production employees had to receive at least the Federally established minimum wage with all certificates being set aside.

The primary task of management, without regard to any characteristic of the production force, is to create a production environment that is conducive to the maximum production efficiency. Attachment II is perhaps the best yardstick for measuring the success of the efforts begun in 1976.

It is noteworthy that the most expensive element of reorganization of the

Industries Division has not been the payment of the minimum wage rate to production employees, but has been the cost of developing a sound management system. This was recognized at the outset, but it was determined that the long-range benefits versus the long-range cost dictated that the investment should be made.

The comments made throughout the remainder of this document reflect results of the analysis of what we have learned during a four (4) year period. I also believe that our experiences are not unique.

Point one outlined earlier questions the validity of the piece rate system for determining certificates for sub-minimum wage payment to blind production employees.

Most managers of Sheltered Workshop programs, supported by the Special Certification Division of the United States Department of Labor, argue that the piece rate wage system, based on wage rates for comparable industry, is the fair approach for paying the Sheltered Workshop employees since it allows each individual to earn according to his/her ability. I submit that the opposite is true. This system is negative in its effect and fails to take into account the industry standards for piece rate schedules, places a burden for productivity on the production employee without regard to equipment condition or supply support, and ignores the fundamental difference between the multi-product, labor-intensive Sheltered Workshop and the machine-intensive, single-product industry which is the typical user of the piece rate wage payment systems.

Without doubt, the single most important factor enabling Blind Industries and

Services of Maryland to achieve minimum wage payment and financial growth simultaneously was the elimination of the piece rate wage payment system.

The cost of establishing, maintaining and accounting for wages on piece rate was greater than the amount required to move employees to a minimum wage on an hourly basis. More detail in our experiences is provided later in this section.

We also found one major additional limitation caused by the piece rate payment system. Sheltered Workshop programs are intended to provide training to blind and severely, multi-handicapped blind persons enabling them to move into competitive employment, as well as to provide a place of employment. To achieve this goal, it is essential that the blind and severely, multi-handicapped blind individual gain as much production experience in differing environments as possible. This ensures lateral and vertical job mobility once he/she is in competitive industry. The piece rate system encourages the blind and severely, multi-handicapped blind individual to resist moving into new job situations since his/her production will drop during the training period, and thus, the pay rate will be lower.

Sound management argues that a piece rate payment system for production employees is a valid approach, (in fact, the most effective), when looking at the production force employed by a manufacturer of specialized products that achieves an efficient rate of volume of production on a given product line. A manufacturing facility which produces shirts all year round can reasonably expect to achieve the maximum skill level from its production employees since the tasks they perform are repetitive, day in and day out. In addition, the cost analysis system is sufficiently effective to incorporate close analysis of each job function. In all of the Sheltered Workshops for the blind in this country, there is not one single production department which will correlate to the high volume, specific production system requirements for standard American industry.

By their very nature Sheltered Workshops for the blind utilize labor-intensive, not machine-intensive, production approaches. Sheltered Workshops for the blind are never directed to specific products production. Therefore, the average Sheltered Workshop tends to alter, on a frequent basis, the product mix from each production line. The effect of this variation in production drastically reduces the ability of the production force to achieve maximum efficiency. This is true without regard to the degree of vision of the production employees. In fact, the same effect would be realized if the entire production force was fully sighted.

Again, the example of Blind Industries and Services of Maryland is illustrative. The Salisbury Division of the Agency in 1975 had the lowest average wage payment per hour of any of the three (3) manufacturing facilities. This facility is devoted, almost entirely, to the production of sewn items including a wide variety of garments. The production of each garment was structured by a complex piece rate standard. Each step in production had its applicable rate. It was not unusual for a given garment to have as many as fifty (50) piece rate standards in arriving at a final production. The manufacturing facility produced a wide variety of garments, as this production varied from week to week, altering the specific work of each blind production employee, the management cost in establishing, maintaining, and reviewing the piece rate system was excessive. Switching the plant to an hourly payment schedule for all production employees achieved a maximum savings through the reduction in management cost. These savings were applied directly to an increase in wages in the plant. The result was an expanded production per person, a higher hourly wage payment and a greater manufacturing profitability for the agency.

Attachment III reflects that the use of piece rate averages in Sheltered Workshops is not, contrary to the popular belief, a positive factor for production reinforcement, but is rather an imposed factor forcing Sheltered Workshops to spend dollars on management costs which could otherwise be applied to production wages. This is not to argue that sound management will ignore average hourly production rates of its employees in determining higher wages. In fact, sound management would take hourly production rates directly into account and will, where production line activity makes it possible, apply incentive bonus plans. This is true of manufacturing facilities without regard to blindness of employees. But a predominately piece rate system is not cost effective for a multi-product mix production environment, again without regard to the degree of sight of the production employees. The comparable industry wage payment system for similar products is simply not applicable to the Sheltered Workshop environment because production systems are not comparable. The reason should be obvious. The similar industry from which the piece rate systems is determined does not have the multiple variable in product mix experienced by the Sheltered Workshop. It is the variation in work activity which reduces the production curve, not blindness of the production employee. A study of modern management systems in manufacturing will show this example to be valid. The availability of the special certificate which justifies sub-minimum wages on a piece rate system is a positive reinforcement to management of Sheltered Workshop facilities to ignore the best standards of American manufacturing techniques which would, in fact, enable them to make minimum wage payment.

Point two stated earlier asserts that sub-minimum wage payments are a negative factor in achieving maximum efficiency. This position is based on the fact that production employees, without regard to their vision, respond to reward. Employees who are treated as being less than valuable respond in a similar fashion. Employees who are treated as valuable members of the manufacturing team respond positively. The rate of wage payment for a given production assignment is one major factor in the positive reward of employees. This concept of manufacturing technique is widely accepted among modern American industrial management groups.

As noted in Point three above, competent management will develop methods of ensuring profitable manufacturing techniques for its products. Very simply, this means that the ultimate test for profitability of the manufacturing process rests with management, not with the production force. Throughout the history of minimum wage legislation, American industry has argued that every successive increase would result in the bankruptcy of substantial sectors of mass employment production units. The minimum wage payment price has steadily increased, and yet the same production units remain in production. This is true because management of such units has found relief through pricing mechanisms, as well as through improved manufacturing techniques. The same management tests should be extended to include Sheltered Workshops for the blind.

Point four outlined above is that the final test of efficiency rests with management, not with the production force. In all sectors of American manufacturing, excluding the Sheltered Workshop Program, the requirement for effective production standards rests with management, not with the production force.

In the Sheltered Workshop system, management is given the convenient "out" of blaming inefficiency on the production force. When faced with serious inflationary problems, any management system would, if the opportunity were available, look to labor costs as the method of resolving the conflict. The only place in American manufacturing where this option is currently available is in the Sheltered Workshop system. This lack of appropriate regulation creates an unreasonable burden on those persons who are production employees in the Sheltered Workshop system in this country, especially in Sheltered Workshops for the blind.

As previously discussed, I believe that the foregoing information is applicable to the issues before you. Blind Industries and Services of Maryland is not uniquely situated.

One further point should be made. In all of our experience there has not been any evidence to substantiate that a blind or severely, multi-handicapped blind person should, necessarily, be less productive. With every production employee the relevant challenge is combining best skills with suitable function.

Again, let me thank you for the opportunity to submit these remarks before this proceeding.

ATTACHMENT I

Average Hourly Rates Paid to Production Employees

Fiscal Year	Average Hourly Wage
1972-73	$1.58
1973-74	$1.53
1974-75	$1.52
1975-76	$1.95
1976-77	$2.38
1977-78	$2.89
1978-79	$3.19
1979-80	$3.42

ATTACHMENT II

Increase in Total Production

Fiscal Year Ending 6/30	Sales $'s	% Inc. (Dec.) over Base Fiscal Year 1973 Sales
1973	$1,130,933	----
1974	1,108,000	(2.02)
1975	1,059,831	(6.28)
1976	1,794,937	58.71
1977	2,559,591	126.33
1978	3,289,800	190.89
1979	3,918,416	246.48
1980 (Estimated)	4,500,000	297.90
1981 (Budgeted)	4,875,000	331.06

ATTACHMENT III

Increase in Production and Hourly Wage in Salisbury

Fiscal Year	Production	Average Hourly Wage
1975-76	$111,685.28	$1.39
1976-77	$408,465.68	$2.59
1977-78	$456,061.88	$2.87
1978-79	$542,331.11	$2.96
1979-80 (Estimated)	$577,122.90	$3.21

STATEMENT OF RALPH W. SANDERS, PRESIDENT, BLIND INDUSTRIES & SERVICES OF MARYLAND

Mr. SANDERS. My name is Ralph W. Sanders and I am president of Blind Industries & Services of Maryland.

It is also my pleasure, Mr. Chairman, to appear as one who has been fortunate enough to receive from the Governor of Rhode Island an honorary citizenship from that fine State.

On my right is Fred Rockwell, a blind worker at the Arizona Workshop for the Blind whom I will yield to shortly to make a few comments. On my left is Pat Hall, who is my assistant for administrative services, to whom I will not yield part of my time for comments.

I have several categories of comments I want to make reference to briefly, so I will speak quickly.

May 4 through May 8, 1980, National Industries for the Blind held its annual sales conference in San Diego, Calif. The stated purpose of that conference was to discuss ways in which workshops for the blind could improve business opportunities to increase sales and thereby to increase employment opportunities for the blind. At the opening session on May 5, the three opening speakers devoted primary comment with almost no reference to sales or to improved business management techniques, but rather to the statement that the real problem facing the sheltered workshop for the blind in this country was the move of consumerism, and particularly that led by the National Federation of the Blind.

Late on May 5, Mr. Joseph Larkin and Austin Scott, a member of the executive committee of the general workshops, and director of the Dallas Lighthouse, had conversation with me and the thrust of that was to say, in effect, within the next 2 years there would be a concerted effort to attack and discredit Kenneth Jernigan and Ralph Sanders as president of the Blind Industries & Services of Maryland. I bring that up not to single out these two gentlemen, but I think their comments reflected a general atmosphere that has been demonstrated before this committee 2 years ago and before the Department of Labor 1 year ago and before the whole discussion of minimum wage payments.

I think the part of it that is relevant this morning, Mr. Chairman, is that the pressure for improved wage payment and treatment of blind workers has been met by the professionals in the field with a posture which says, in effect, defend the past system at all costs and do not enter into the arena of examining the lessons to be learned from modern American business management affirmatively. It is to that issue that I want to address my remaining comments.

I submit to the committee that the current system that has evolved under the regulations of 14(c) is archaic and simply not applicable to the assignment that it has been given. I say that for several reasons.

First let me take the unfortunate role of contradicting the Assistant Secretary of Labor who said earlier that the current provisions provided for individual certificates and didn't result in the lumping of people together. The current system under 14(c) provides for two different kinds of services. One kind is the individual certificate which permits the lowest wages under 14(c). There also, however, is a shop certificate which allows a facility to result in a system that is less precise in its measurement. That is one inequity that I think the committee should keep in front of it.

The second really deals with a basic problem in the application of how we oversee minimum wage determination and payment. We talk a lot about workers earning what they are capable of producing and we talk a lot about average industry standards. The problem is that you are applying two systems that simply won't fit against each other. The piece rate system that is applied to modern American management systems in no way resembles a workshop for the blind; that is, it is a piece rate applied to production employees doing a single function in a single production line in a mass production environment that achieves a learning curve capable of maximum production on the part of each employee and maintains that function day in and day out, week in and week out, year in and year out, as is true with the jewelry industry in Rhode Island, as is true with tool machine work, as is true with clothing.

All workshops for the blind are by their very nature labor intensive, not machine intensive—not single product environment, but multiple. Nevertheless, all American labor put in the production mix, an equipment mix and a support mix that you find in sheltered workshops could not be competitive according to that great thing we call the piece rate standard that everybody seems to point to as though it were some monolith that says, yes, there is somebody out there that has the intrinsic ability to produce 100 whatsits in an hour.

We had discussion this morning about the question of the severely mutiply handicapped. You heard testimony earlier about what that includes—20 pounds overweight and a variety of other serious handicaps that a number of us are victim to. The specter of a severely, multiply handicapped person raises some image of a three-headed monster fumbling around in the bushes. They are human beings who happen to have more than one disability that we call a severe multiple handicap.

The test of productivity is really always whether you are dealing with someone who is supposedly not handicapped or someone who is blind with a severe additional handicap. It is really one of combining the person's best labor function in the most efficient production environment. I submit to you that with proper engineering, with sound management, people who are severely handicapped can produce, and produce at a productive rate.

I suppose I would like to conclude by returning to my point that we have responded with defensiveness and not with an attempt to solve the problem and I think that best shows up when people say, if you force us to pay the minimum wage, we will respond by putting out of work those that are severely handicapped. Mr. Chairman, I submit that that response tells you best of all the problem we face. I say to you that if you require me to pay higher than we currently pay, what we will do is what we did in 1976 when we were forced to go to minimum wage by the board of trustees of Blind Industries Services of Maryland and that is, instead of laying off the people who are most worthy of our services and who we are mandated to serve, we will continue our production lines and if there are layoffs to come they will come by cutting out excessive management costs, not by cutting out work for blind laborers.

That concludes my comments. I will be pleased to respond to any questions.

I would like to give Mr. Rockwell a chance to speak briefly as a worker.

Mr. **Beard.** Are you finished?

Mr. **Sanders.** I am, yes, sir. I said I would talk quick.

Mr. **Beard.** I am not hurrying you. It was a good statement. You have covered all the points. Very, very good statement.

Would Mr. Rockwell like to say a few words?

STATEMENT OF FRED ROCKWELL, BLIND WORKER, ARIZONA INDUSTRIES FOR THE BLIND

Mr. **Rockwell.** Yes, Mr. Chairman. Fred Rockwell from Arizona and I have worked there for 10 years. Prior to that I worked at Binghamton Blind Work Association. My career began as an entry into the Lighthouse, New York City, in 1963. I want to thank you for this opportunity for being here before this committee.

I want to tell you a little bit about the system. I worked in it for 16 years. Now I started at 90 cents per hour in Binghamton as a sewing machine operator. I worked there 6 years and it took me that long to get up to $1.45 per hour. I left there and went to Arizona and I started at $1.60 per hour. I stayed there for a couple of years at that level. I am paid minimum wage now, I am paid $3.10 an hour, but it took me 10 years to get there. Yet all the time they kept saying to me, "You are a good worker and we would pay you but we just don't have the money."

Now our employees at that time in the industry did have a few concerns.

Incidentally, I neglected to mention that I did have a written statement and I wanted it placed in the record in full.

Mr. **Beard.** It will being incorporated into the record.

[The prepared statement of Fred Rockwell follows:]

PREPARED STATEMENT OF FREDERICK C. ROCKWELL, BLIND WORKER, ARIZONA INDUSTRIES FOR THE BLIND

Mr. Chairman, I am Fred Rockwell. I am a production employee (totally blind) at Arizona Industries for the Blind (AIB), located in Phoenix. My address is 330 N. First Avenue, Phoenix, Arizona 85003.

I am not a newcomer to the industries which we call sheltered workshops. My career in this line of work started in 1963 when I entered an evaluation and training program at the Lighthouse for the Blind which is operated by the New York Association for the Blind located in New York City. Seven months later, in April of 1964, I went to work at the Binghamton Blind Work Association, Binghamton, New York, and I worked in that shop for six years. During that time I worked primarily as a sewing machine operator and chair caner with a starting wage of 90¢ per hour in 1964. By 1970, still doing the same jobs, I was being paid $1.45 per hour, an increase of 55¢ per hour over six years as I calculate it.

Early in 1970 I went to Phoenix — I heard the pay was better there. As it turned out, it didn't really matter much, but I did do a little better on the pay, for at Arizona Industries I started at $1.60 per hour, doing the same job I was doing in Binghamton — I guess my productivity got better; maybe it was a change in the air. At AIB, as in Binghamton, I operate a sewing machine, along with plenty of other jobs which I will talk about later. I think I am a good sewing machine operator, and I ought to be, since I have been doing it for 16 years.

During the current evaluation period my pay rate is $3.10 per hour. In one sense I suppose you could call it a good thing, after all, I am making the minimum wage for the first time in my life after 16 years of work, five days a week, year in and year out, but why should I have to wait 16 years just to make the minimum when I know there are sighted people, less productive than I, who are paid what I make now from the first day they walk in the plant. Next September I will again be evaluated, and they will tell me what they think my productivity actually is. After that, I don't know what I will be making -- could be more, could be less -- but I do know that the sighted people in our plant will not drop below what I make now; that's what I know, and I don't believe it's right.

I have come to this hearing today to speak out on behalf of blind people who work in these workshops, because I know, firsthand, what it is all about. I don't pretend to be an expert in this law or in what anybody is supposed to do to protect us -- they don't do much -- but I can tell you what is happening in the workshops, and that is what I have come to do. I know you will hear from all kinds of people who run these shops, and I expect that they will say that they just can't afford to pay us anymore. That is what they tell us all the time, but we don't see these managers suffering too much. I can't understand it, how is it that if we blind are so unproductive, those managers can do so well.

It is distressing to me that most blind workers are literally afraid to speak out. I understand what they feel, and I feel it a bit myself but if someone doesn't come forward, none of us will ever get ahead at all. I have been pressured and intimidated, and once I even lost my job at AIB for 16 months. This was no picnic, but I strongly opposed a legislative proposal which management supported, and as a matter of principle I refused to sign a resolution prepared by management. All of us who refused were fired -- they said we were laid-off, but what they called it didn't matter, there

pages tightly bound

was no work and no pay. So I know about intimidation, it is the way of life in the workshops, for the low pay we get makes most of us totally dependent, and dependence makes you vulnerable.

There are several conditions about our situation which I would like to have you consider most carefully. Prior to this hearing I talked with the other employees in our shop, and when I knew I would be coming we had a meeting of the employee's committee, where the major weaknesses of our current set-up were aired. Here are a few of our concerns.

1. The productivity system which is used to set our wages is basically unfair. As I understand it we are expected to meet production rates maintained by sighted workers for similar work. This would not be so bad, and I would not object to it at all, if we were dealing with fair comparisons. The major problem is that the contracts we get tend to be small and intermittent, meaning that we really don't get a chance to work up speed in the production line before the job is over.

   As an example of this, last year, in 1979, I changed jobs at least 30 times, and rarely worked on any job for more than two to three weeks. Sometimes a job would last a couple of days, and then we would be off to something else entirely. To illustrate what I am talking about, while I am called a sewing machine operator and do that work when it is available, I am frequently assigned other tasks which include: chair caning, material folding, packaging, automatic bag sealing, book-end deburing, yarn cutting, pillowcase turning, and cutting sponges. These are the nine jobs which I normally do, but I emphasize that we rarely work them for any length of time at all. Then, too, days go by when some just wait for instructions or a new assignment, and it sure doesn't help your productivity.

2. Sighted people whose productivity is less than normal for industrial standards are still paid at least minimum wage, yet blind people with higher productivity are not. At AIB we currently have 25 blind and 7 sighted workers, thus we are just within the 75% blind, 25% sighted, ratio which I think the shop is required to maintain. 76% of the blind workers (19 employees) are paid less than $3.10 per hour and 6 blind workers are paid $3.10 or above. By contrast, all 7 of the sighted employees (regardless of their productivity) are paid at least $3.10 per hour.

Here are a few of the current figures to illustrate more graphically the subminimu wage program. Among our total current work force of 32 blind and sighted employees, only one worker (a blind person) makes the standard of so-called "normal" productivi and in his case it's 121% of the norm. I emphasize that this person is blind. Of the sighted workers, only three of the seven are rated above 75% of normal productivity yet, again, each makes minimum wage or more. We are often told that management cannot afford to pay us at least the minimum wage but here is an example of the type of discimination which exists: According to data which I have obtained fro our workshop, one of our sighted workers is currently rated at 53% of normal productivity while working a job where the prevailing wage rate (the rate which would mo commonly be paid in competitive industry for similar work) is $3.78 per hour. Sinc the sighted person in question produces at a rate of only 53% of normal productivit the earned wage for that sighted worker (that is 53% of $3.78) should be a flat $2. per hour. However, that same sighted worker is not paid the earned wage of $2.00 per hour, no, not at all, for the law requires that sighted worker to be paid at least the minimum wage, currently $3.10 per hour, and this is exactly what is done.

Now if that same sighted worker were blind, we do not have to speculate on what would happen. In fact, the data from our workshop provides plenty of examples.

Among the current work force at AIB there are 10 blind people who have productivity ratings which are higher than 53% of normal productivity, yet six of these are still paid less than minimum wage. For instance, Worker A among this group has a productivity of 55%. Like the sighted worker in the sample used above, Worker A is working currently on a job where the prevailing wage rate is $3.78 per hour. His earned wage, taking into account his productivity at 55% of the so-called norm is thus $2.08 per hour, but the shop being a generous shop, is actually paying him $2.51 per hour. In other words, in the case of Worker A, they are subsidizing him at the rate of 43¢ per hour, while in the case of that sighted worker, the subsidy is $1.10 per hour, a subsidy of more than twice as much. And I thought this was a workshop for the blind.

Now another worker, a worker whom we will call "Worker B" has a current productivity rating of 58% of the norm. Worker B is also working a job where the prevailing wage rate is $3.78 per hour, so at this 58% of normal productivity, his earned wage is $2.19 per hour -- that is 58% of $3.78. At the same time, our generous workshop is subsidizing Worker B to the tune of 82¢ an hour (a little less than twice the hourly subsidy paid to Worker A, but still 28¢ less than the hourly subsidy paid to that sighted worker whose productivity is only 53% of the norm). What is it about blindness that says we cannot be subsidized at least as much as these sighted workers? Are we not at least as much entitled to the workshop's generosity?

Of the seven sighted people in our workshop, four are paid at least $3.10 per hour, while the remaining three received wages above the federal minimum, yet not one sighted person has a productivity rating which meets 100% of the so-called norm. The highest producing sighted worker in our shop is currently rated at 90% of normal productivity, yet to illustrate further the wage discimination which exists, that same individual is currently paid an actual wage of $3.76 per hour, identical to the prevailing wage on the job which he currently works. At the same time, as I already mentioned, one blind worker in our shop is currently rated 121% of productivity, yet (and by now you may not be surprised at this) he is paid 20¢ an hour less than the sighted worker who has only achieved 90% of the norm. This is fairness? This is equity? The Labor Department, or someone else might think so but I just don't believe it.

3. No good faith attempt (not even a minimal effort) is made to advise us of our rights (that is if we have any rights) under federal or State laws which relate to the wages paid by the workshops. For example, although I understand that the United States Department of Labor has the responsibility for wage standards, officials from that Department have never to my knowledge made any initiative to meet with or to advise the production employees as to their rights under law. As a member of the workshop employee's committee, I have been told of visits by Department of Labor representatives, but this was only informational in nature, and we were never invited to meet with these officials privately or with management present. Nor have I ever been given explanatory materials prepared by the Department of Labor, and I have no idea if such materials exist or where to get them if they do. I assure you, I am not alone in this; I have checked with my fellow employees.

4. In my experience, the workshop is not a place of rehabilitation, for to me rehabilitation means a job and a decent income to support yourself and your family. At AIB, for example, there is not even a full-time placement specialist working directly with production employees of our workshop, so as a consequence relatively few move into competitive industry. In my own case, I have been running a sewing machine and doing the other jobs that I mentioned, and I have been at this for almost 16 years (more than a decade and a half, not to mention my entire working life), but not once has any initiative been made on my

behalf even to suggest that there might be a possibility for employment outside of AIB.

Now it may be that my work experience is simply not what employers outside the workshops are willing to buy, for example I don't know how many opportunities there are to sew pillow cases full-time in Phoenix, but if the jobs aren't there, how can our work be called rehabilitation, for what has it prepared us to do? Our training is simply not relevant to the job market. We know it, management knows it, but it is still that way and there is nothing the employees can do to change it. This is not rehabilitation, it is work, and we should be paid for it.

Mr. Chairman, these are the concerns which I, along with the members of our employee committee have expressed to the management of AIB, and they are the concerns which, on behalf of blind workers, I now express to you. How much longer will this situation be allowed to exist; that is the question I would like to ask. For a long tim we have waited for change; I think we have waited too long. As we talked about this AIB, the feeling which I heard expressed over and over again was summed up by one of the employees who said to me (and this is the best I can do to quote his words) "You know, there is really no change -- I don't believe America works for us, but I know we work for America." For my own part, I don't know too much about how public policy is determined, and I am not at all experienced in this legislative process, but I do know that despite what we perceive as gross injustice, nothing, literally nothing, is being done on our behalf.

Now, I appreciate the fact that this subcommittee is holding hearings -- this might be an important step -- but we don't need talk or further study; we need better pay or better jobs, and we need them now. The sad part of it is that I could have said the same thing a year ago, or two, or even a decade ago, and yet nothing has really changed our lives today. Will it be the same for us tomorrow? Will there be talk, concern, even compassion, or will we actually have more money for better jobs in order to feed ourselves, to clothe ourselves, and to enjoy the good life which we are suppose to have in this country. What will our future be, I cannot tell, but I feel that you will have something to say about it, and I can only hope that you will make the only fair decision for better pay through at least the minimum wage. This is what our workers would have said, had the others been here to join me in front of you today.

Mr. ROCKWELL. I am not just down here on my own behalf but I am speaking for 29 blind employees of Arizona Industries. Since our time is a little bit short, I will just simply say this much about it. We feel that our production rates and standards are unfair. We have information which you have in our written statement which will illustrate that we have sighted persons who are not meeting the production standards but who are actually being subsidized to the minimum wage while their blind counterparts are being denied the minimum wage and they are producing at the same level or a little higher than the sighted persons.

I will conclude briefly by saying this. Twenty-nine blind employees of the Arizona Industries plus nearly 100 other employees that I have talked to over the years in various workshops would have said this if they had been allowed to sit here in front of you today, and that is simply this. Blind persons work for America. We want to know how long we are going to wait before America works for us.

Unless you have questions, thank you and good day. [Applause.]

Mr. BEARD. What can I say? I mean what can I add to that? That was an excellent report.

Mr. Stephens?

Mr. STEPHENS. Thank you, Mr. Chairman.

Mr. Sanders, what is the placement rate of your organization of people into private competitive jobs?

Mr. SANDERS. Our last report, I believe, indicated that we were at about 9 percent which is unfortunately only slightly above the average for the system. Let me say up front we are not doing as much in placement as we ought to be although our current record this year is about three times the rate of last eyar but it is not to a point where I can give you some written breakdowns on percentages by groups. We recognized 4 years ago that the past performance of the program when it was reorganized indicated the need for a fundamental redevelopment of a training program in the industrial environment, recognizing that competitive placement is not predicated solely on your ability to run a particular machine or to carry out a specific function.

Industry is looking for employees who have lateral and vertical job mobility, that have the ability to travel independently, that have the ability to function within the peer group pressure system of the industrial environment. These programs are beginning to pay off. We made a commitment of public funding. We do that through this device. We allow a 40-hour workweek to permit employees to enroll in rehabilitation courses that are designed to teach alternative techniques that make that individual more capable of independent function in society, that being in such areas as cane travel, communications skills, a whole variety of skills that the individual needs to be really competitive. Recognizing that that individual needs his income or her income to support the family, we provide that individual with a grant to make up the loss in income by reducing his or her workweek. As I said, I think this year our statistics will show that that commitment in funding will pay off in a positive return in job placement and tax returns within the environments.

Mr. STEPHENS. Did I understand you correctly earlier when you said 9 percent which was three times over the previous year's——

Mr. SANDERS. That is the previous year. We are over that.

Mr. STEPHENS. You are 27 percent now?

Mr. SANDERS. Yes, but we are not through the year.

Mr. STEPHENS. What are the numbers of people?

Mr. SANDERS. In the last 3 months it is 17 people.

Mr. STEPHENS. Out of a total universe of how many that might be eligible for placement?

Mr. SANDERS. About 250.

Mr. STEPHENS. 250.

Obviously the money for the specialized training that you talk about, for instance, the cane training, I believe, that has to come from somewhere. What is the source of that money and how much do you budget each year for this kind of training?

Mr. SANDERS. Blind Industries and Services receives an annual State appropriation that goes to fund a variety of programs, including the Industries Division. Approximately $400,000 in public funding is applied as a support to the industries program for which a substantial portion goes for the kind of training I mentioned before and to the provision of extensive public transportation for parts of the State that we served that simply are too rural to have any kind of public transportation system within it.

Mr. STEPHENS. You say substantial amount. Did you have a ballpark figure?

Mr. SANDERS. I would say better than half.

Mr. STEPHENS. During any given year how many people out of the universe of 250 will be enrolled in one program or another to train them for placement?

Mr. SANDERS. Well, let me correct the problem in the figures. Our Industries Division serves approximately 160–170 individuals. The 250 involves people who are vocational candidates within a training program that we have; so, when I give those figures it involves not only the people in the industries program but some people who are cross-indexed in the vocational training program that we operate. Within the Industries Division, during the year, all of the persons involved in that program will benefit from one or more of the additional programs that we provide.

Mr. STEPHENS. In your statement you note that the average wage rate is $3.42, then you note the statistics that 46 percent of your production people are severely or multiply handicapped. Do you have a breakdown showing what the average wage rate of the multihandicapped person is, that 46 percent, versus the 54 percent who are presumably single handicapped?

Mr. SANDERS. I don't have it today but I can provide it by tomorrow.

Mr. STEPHENS. That would be fine.

Mr. SANDERS. I can tell you it will show no particular distinction. Again, the category of severely multihandicapped is so misleading and it is used as a ruse to confuse you. You can define it any way, but ultimately it is still going to be ample.

[The information referred to above appears in the appendix.]

Mr. STEPHENS. One question of Mr. Rockwell.

Mr. Rockwell, have you presented the evidence embodied in your statement to the Department of Labor for possible investigation of the Arizona business?

Mr. **Rockwell**. No. I understand that the Department of Labor has come out or at least the local representatives have come out there but the employees were never informed. It was an informational nature. No, I have not presented anything to them.

Mr. **Stephens**. Thank you.

Mr. **Beard**. Thank you very much, gentlemen.

Mr. Sanders, we will submit some questions.

Mr. **Sanders**. We will be pleased to respond to them.

[The information referred to above follows:]

Comparison of
State Appropriation to Approved BISM Budgeted Expenses

Fiscal Year Ending 6/30	Approved Budgeted Expenses For Year	State Appropriation For Year	% of Appropriation To Budgeted Expenses
1973	$1,948,698	$ 928,826	47.6
1974	2,190,458	965,973	44.1
1975	3,799,991	1,079,271	23.3
1976	4,800,274	1,014,271	21.8
1977	4,263,906	1,014,271	23.8
1978	5,262,661	1,014,271	19.3
1979	6,140,297	1,087,834	17.7
1980	6,682,904	1,087,834	16.3

corrected 6/17/80

Mr. **Beard**. Thank you very much.

The next witness is Mr. James Allen Cox, Jr., executive director, Association of Rehabilitation Facilities.

[The prepared statement of James Allen Cox, Jr., follows:]

Prepared Statement of James Allen Cox, Jr., Executive Director, National Association of Rehabilitation Facilities

Mr. Chairman:

I am Allen Cox, Executive Director of the National Association of Rehabilitation Facilities. I wish to thank the Subcommittee for the opportunity to testify and for its interest in the administration of Section 14(c) of the Fair Labor Standards Act which governs payment of special minimum wages to handicapped workers.

The National Association of Rehabilitation Facilities (NARF) is a voluntary membership association with more than 1,000 members. In your state Mr. Chairman, we have three member facilities located in Pawtucket and Providence. The Association is concerned with rehabilitation services and the employment of handicapped individuals. Member rehabilitation facilities and workshops serve more than 400,000 handicapped people annually. These service programs include vocational and physical rehabilitation, vocational evaluation, work adjustment, personal and social adjustment, and transitional or extended employment services.

Many of our member facilities hold certificates from the Department of Labor or sheltered workshops or work activity centers. The administration and effect of the certificate program under Section 14(c) coupled with other federal programs and policies affecting employment and training of handicapped people is a primary concern of our organization. We believe that certain changes in the DOL regulations under Section 14(c) are needed to improve opportunities and wages for handicapped people working under various Section 14(c) certificates. As a preface to specific discussions of these, I believe it is helpful to discuss more generally the need for a national policy for employment of handicapped people.

I: SHELTERED WORKSHOPS: A DESCRIPTION

According to the Department of Labor, in 1979 there were 1,700 sheltered workshops and 3,000 work activity centers serving more than 200,000 people annually.

Althouth workshops differ in the range and extent of services provided, most workshop programs concentrate on restoring or improving the productivity and earnings of handicapped people. The three main functions of a workshop are:

(1) As a rehabilitation agency--To reduce the number and severity of living and adjustment problems of the handicapped.

(2) As an employment preparation agency--To train and vocationally prepare the handicapped for placement into competitive employment.

(3) As an employer--To provide sheltered remunerative employment.

Sheltered workshops provide remunerative work (either of a transitional or extended nature) and are non-profit. Workshops provide services including vocational evaluation, work adjustment, training, remunerative employment, and placement. They also provide supportive services such as social and psychological services, counseling, medical services, recreation, remedial education, transportation services, housing services, and a wide range of other human service programs.

According to a report (The Role of the Sheltered Workshops in the Rehabilitation of the Severely Handicapped, Greenleigh Associates, Inc., New York, July 1975) submitted to Congress by the Department of Health, Education and Welfare, the average workshop offers 10 different programs or serivces to its clients. This study showed that:

- Clients entering most workshops are severely disabled and have only limited employability and marginal productivity. Nearly one-half are multiply-disabled and more than one-fourth are seriously hampered in independent functioning (including the inability to travel independently and manage their own food preparation).

- Workshop clients also evidence limited employability because of severe educational deficits and the lack of work experience. Only one-fourth had completed high school or the equivalent, and only one-fourth had worked prior to entering the workshop program.

- Most workshop clients were single and live with their families, however, approximately one-fifth live in institutions or congregate residences. Only one-in-twenty clients relied upon their own earnings for primary support, upon entry into the workshop program.

- The relationship between wages paid in workshops and those paid for comparable work elsewhere is difficult to assess since work found in workshops is not commonly done in competitive industry. Furthermore, even where end products are comparable, inefficient work processes and the lack of mechanization render direct comparisons difficult.

According to Sheltered Workshop Study: A Nationwide Report on Sheltered Workshops and their Employment of Handicapped Individuals, published by the Department of Labor in March, Vol. II, the typical client in 1976:

> "was a white, 25 year old, mentally retarded male who had never married, and who lived in a dependent type arrangement (group home, residence operated by the workshop or with parents). He worked about 20 hours a week at subcontract work in a work activities center at his first employment experience. His hourly earnings were 43 cents, and his monthly earnings of about $31 were supplemented by public assistance (Supplemental Security Income) of $147."

This description reflects the fact that over the last decade a distinctly new and different client population has appeared in sheltered workshops, in major part because of state policies to return mentally retarded and other institutionalized people to their communities. (We understand that Rhode Island is about to embark on a program of discharging a large number of mentally retarded people from state institutions.) As a result many facilities have become less and less institutions of transition and more and more long-term employers. The degree to which this is true is evidenced by the fact that in FY 1973 there were 1,056 sheltered workshops and 1,418 work activity centers certificated by the Department of Labor. In FY 1979 the comparable figures were 1,691 and 3,079. By statute, work activity centers are considered to be facilities providing programs for people whose productivity is "inconsequential." The Sheltered Workshop Study confirms that most growth in the client population in sheltered employment between 1973 and 1976 was mentally retarded people. Clients with developmental disabilities including mental retardation, are the major population in workshops. Physically handicapped clients constitute less than one-fifth of the total group. This massive change in the nature of the client population has created new demands for services which are only partially covered by public programs.

From my own experience, Mr. Chairman, as Executive Director of NARF and previously as Director of the Florida Association of Rehabilitation Facilities and Deputy Chief, Client Services, Florida Division of Retardation, I have seen this change in client population and the demands it places on the facilities. Many of these people will be long-term clients in workshops and work activity centers. For example:

> Miss A is a retarded female with Downs Syndrome, age 25. Her I.Q. is in the low 40's. Father deceased; mother an alcoholic. While a young child she was removed from the home due to neglect and placed into a state institution where she resided for 15 years. During the de-institutionalization push of recent years Miss A was returned to her community.

> Miss A was completely bewildered by her new environment. Due to her extremely low I.Q., inadequate socialization skills and inability to travel independently, she was placed for rehabilitation and training into the workshop. After six months of intensive one-on-one rehabilitation evaluation, training and support, Miss A was placed into the bench assembly section of the workshop where she received close supervision and an adapted work environment. Initial progress was slow, earning only a few cents per hour, but always showing progress. After three years in this tedious workshop assembly job, Miss A's earnings vary from about $400.00 per month to nearly $600.00 per month depending on her productivity. This severely retarded young woman is now the sole support of her alcoholic mother. The workshop will try to place her into a competitive job. However, due to her very low intelligence and inability to make normal minute-to-minute judgements, her requirements for constant supervision, and the non-availability of employment in her rural area, the workshop placement counselor is not getting his hopes up for success outside the workshop.

II. TOWARD A NATIONAL EMPLOYMENT POLICY

None of our existing programs to aid the handicapped address these needs in a comprehensive position particularly in relation to employment. We need a national employment policy for the severely disabled.

The last decade has seen impressive gains in the recognition of the needs of handicapped people including protection of civil rights, provision of employment opportunities, delivery of services and provision of direct financial support. In each of these areas, public policy in 1980 is substantially more favorable to the disabled than a decade ago. Additionally, public awareness of disabled people is more enlightened and pervasive. Assumptions and myths which were conventional wisdom a decade ago are being dispelled.

The recognition of people with handicapping conditions as victims of discrimination has been called to public consciousness by active and agressive advocacy by handicapped people themselves. This fits the pattern of civil rights movements of the past whether founded on race, religion, or ethnic origin. It has worked. Protection of civil rights of handicapped people has been a recurring theme in federal legislation of the 1970's, the most prominent action being enactment of Section 504 of the Rehabilitation Act of 1973 which prohibits discrimination against handicapped people in any federally-assisted activity. A companion provision in the same Act, Section 503, prohibits discrimination against handicapped people in employment by most federal contractors. The significance of these statutes and the regulations promulgated under them cannot be overestimated.

Beyond Section 503 and 504, there are significant advancements in providing employment opportunities for handicapped people. Section 503 is of considerable consequence as it will break down barriers to jobs in competitive employment. For facilities providing sheltered employment, the Javits-Wagner-O'Day program under which government contracts are set aside for workshops employing handicapped people, State Use Laws, the Handicapped Assistance Loan Program of the Small Business Administration, Community Development Block Grants for facilities through the Department of Housing and Urban Development, the Comprehensive Employment and Training Act and similar advances have opened opportunities for employment of the handicapped. There are defects and limitations in these programs but, again, they lay important groundwork.

These are some of the major programs and policies which bear on employment and rehabilitation of victims of traumatic injuries, congenital defects, mental illness and other debilitating conditions. The challenge of the next decade is to mold these elements into a comprehensive national employment policy, by filling in the gaps while maintaining and safeguarding the existing base.

Let me set forth the unfinished agenda for developing a truly national and comprehensive employment policy for handicapped people. I suggest the objectives of such a policy are the following:

1. To the maximum extent possible, disabled people should have the opportunity to hold jobs in competitive employment.
2. People who are limited in their ability to hold competitive jobs should be able to obtain sheltered employment. Such employment opportunities should be stable and adequately compensated.

The hallmark of the rehabilitation movement is the restoration of disabled people to productive activity. The argument that "people restored to work are taxpayers not tax eaters" has prevailed in the Congress to sustain the vocational rehabilitation program under the Rehabilitation Act and others as well. This principle is sound and should be pursued both politically and programmatically. However, it is clear that a significant part of the disabled population will not, under current circumstances, find jobs in competitive employment.

Rehabilitation facilities are dealing with more severely handicapped people, particularly the mentally retarded and mentally ill. For many such people, rehabilitation facilities are not a medium of transition, but the employer of last resort. Policies in this area of sheltered employment are under strain and require substantial overhaul.

Currently, there is certain public ambivalence toward sheltered employment. Many advocacy groups regard sheltered workshops as exploitive and there is enough fire with this smoke to attract the attention of national news media. On the other hand it seems clear that affirmative action coupled with the best of rehabilitation programs will not in the near term provide adequate employment opportunities in the competitive sector for severely handicapped people.

We must rethink the range of opportunities now available and apply to sheltered employment the expertise in engineering, management and finance commonplace in American industry. While income supplements and direct public support will be essential for some, a prime policy objective should be to increase productivity and wages. Over the not-too-long haul, such investments in sheltered workshops are preferable to transfer payments and personal independence.

III. RECOMMENDATIONS

A. Section 14(c), Fair Labor Standards Act

I would now like to turn to the specifics of such a policy in the context of Section 14(c) of the Fair Labor Standards Act.

The Fair Labor Standards Act (FLSA) was enacted in 1938. Since 1938, the FLSA has included provisions allowing the Secretary of Labor to issue certificates allowing employment of handicapped workers at wages lower than the statutory minimum. The FLSA Amendments of 1966 (P.L. 89-601) set a floor on the amount to be paid handicapped workers of not less than 50% of the higher of the statutory minimum wage of wages commensurate with those paid non-handicapped workers in industry in the vicinity. In addition, the 1966 amendments also provided for certificates for individuals at less than 50% of the applicable minimum wage, for handicapped individuals who are performing work incidental to training and evaluation programs, or for handicapped workers whose earning capacities are so severely impaired that they are unable to be employed in competitive jobs or if they are employed in a work activities center. The statute defined "work activities centers" as:

> "Centers planned and designed exclusively to provide therapeutic activities for handicapped clients whose physical or mental impairments are so severe as to make their productive capacity inconsequential."

The statute recognized the inability of handicapped workers to compete in the competitive labor market due to certain circumstances--primarily low productivity. As stated by the Department of Labor:

> "Special treatment of the handicapped was in recognition of the fact that, because of age, physical or mental disability, many individuals cannot successfully compete with non-handicapped individuals for jobs at the statutory minimum. In order to prevent curtailment of employment opportunities for such individuals, these provisions were included to act as an inducement for employers to hire handicapped workers who are incapable of earning the minimum wage because of lower productivity." (Workers Certification Under Section 14 of the Fair Labor Standards Act -- A Report of Certification of Learners, Apprentices, Students, and Handicapped Workers, U.S. Department of Labor, submitted to Congress March 1976.

Pursuant to the 1966 amendments the Department of Labor issued regulations reestablishing the terms and conditions authorizing lower minimum wages for handicapped workers employed in competitive industry and in sheltered workshops. They are found at 29 CFR Part 524, Special Minimum Wages for Handicapped Workers in Competitive Employment and Part 525, Employment of Handicapped Clients in Sheltered Workshops. Part 525 is of major concern here. Under the regulations, five types of special certificates are issued: regular, work activities center (WAC), evaluation, training and individual rate. In order to receive a certificate, a workshop or work activity center must meet certain eligibility criteria. A workshop is a

> "charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabiliation for handicapped workers, and/or providing such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature."

In determining whether to issue a certificate, the DOL will consider the several criteria pertaining to competition with commerce, wages paid, services available and disabilities of individuals in the workshop. Once issued a certificate a workshop may pay lower than the statutory minimum for the effective period of the certificate.

In order to receive a WAC certificate the sheltered workshop or department thereof must meet the regulatory definition of WAC which is:

> "A workshop, or a physically separated department of a workshop having an identifiable program, separate supervision and records, planned and designed exclusively to provide therapeutic activities for handicapped workers whose physical or mental impairment is so severe as to make their productive capacity inconsequential. Therapeutic activities include custodial activities (such as activities where the focus is on teaching the basic skills of living), and any purposeful activity so long as work or production is not the main purpose."

As stated in this definition, WAC clients are required to be physically separated from the regular workshop clients and not integrated for any programmatic purpose. In addition, a WAC will not qualify for a special certificate if it pays average earnings above a certain level. The definition of the average earnings is determined by a formula (not specified in the regulations) which assumes that on the average WAC clients work no more than 1,500 hours a year at an average of no more than 25% of the statutory minimum wage. If a sheltered workshop or WAC is found to have violated the terms of the special certificate, it is withdrawn and the workshop or WAC may be required to begin paying the statutory minimum wage and retroactively pay the difference between the statutory minimum and the certificate rate from the date of the violation.

There are a variety of points of view about the operation of these regulations. These represent different perceptions and philosophies on how to increase productivity and wages for handicapped workers.

. In the 95th Congress H.R. 8104, would have required that no certificates would be used for blind or other visually handicapped workers. Similar legislation, H.R. 3764, has been introducted in the 96th Congress and is before this Subcommittee. The National Federation for the Blind (NFB) has advocated removal of blind workers from the special minimum wage program. On February 2, 1979 the NFB petitioned the Secretary of Labor to amend the Section 14(c) regulations so that certificates could no longer be issued for blind or otherwise visually handicapped workers.

Additionally, during 1979 the Wall Street Journal published a series of articles on sheltered workshops and employment of the handicapped. These articles examined alleged inequities and abuses of the FLSA program. Late in 1979, at the request of Congressman Goldwater the GAO began an investigation of some of the issues raised in the Wall Street Journal articles.

Our organization has suggested that certain aspects of the regulations have the effect of decreasing productivity and work opportunities for handicapped people.

One of these is that the regulations require physical separation of WAC clients from regular sheltered workshop clients. This requirement was written into the regulation in 1966 long before the concept of mainstreaming became accepted public policy through Section 504 of the Rehabiltitation Act of 1973 and other laws. A substantial number of facility managers believe that this requirement inhibits productivity by and upward mobility by people in work activity centers.

In a workshop, production may be performed by a single person, a team of people or by an assembly line. A team approach to a project normally divides the project into easy to more difficult tasks. These tasks are performed on the basis of ability. The easier tasks are to be performed by a less competent person such as a WAC client, and the more difficult tasks by more competent individuals. Individual projects are performed on the basis of individual competence and productivity. Therefore, under certain circumstances WAC clients can be integraged with sheltered workshop clients with higher productivity. Another facet of integration is that less disabled and more productive people act as role models for the more disabled with positive effects. This is the basic concept of mainstreaming handicapped people.

We believe that facilities holding both types of certificates should not be required to integrate clients, but should be permitted to integrate less productive and more productive workers when the results will be higher productivity and wages. This recommendation does not propose to eliminate work activity centers; it would simply allow facilities flexibility in working with WAC clients in helping them achieve higher wages and their rehabilitation goals.

Further, the average earnings used to define a "work activity center" should be reexamined and increased. The current definition is based on a formula (which does not appear in the regulations) which assumes that WAC clients work no more than 1,500 hours a year at an average of no more than 25% of the statutory minimum wage. A facility holding a WAC certificate must meet this test. If clients' wages on the average exceed this level, the facility is no longer eligible for a WAC certificate. The alternative is a sheltered workshop certificate which requires payment of not less than 50% or the minimum wage of individual certification, which is of limited application. Thus facilities are faced with a substantial "gap" in DOL regulations, between an average calculated at 25% of the minimum wage for WAC's and the 50% minimum contained in the sheltered workshop definition. This provides a not-too-subtle incentive to manage work and wages to meet the WAC standard. The ragulation should be revised to make the two types of certificates complementary. NARF would propose to do this by providing in the regulations for the WAC average income level to be determined by the following formula: statutory minimum wage X .45 X 1,500 hours. The change would not affect the requirement that handicapped workers under a WAC certificate be paid on the basis of productivity and commensurate wages.

This proposal would include a requirement that any handicapped worker under a WAC certificate earning in excess of 50% of the statutory minimum wage for a period of three months be transferred to a sheltered workshop or individually certificated.

These changes would contribute to higher productivity and wages in sheltered employment.

We have raised these issues with the Departments of Labor, Education and Health and Human Services and have recently contacted the Interagency

Coordination Council charged with coordination and implementation of Section 504 of the Rehabiltitation Act. Copies of this correspondence has been provided to the Subcommittee staff.

At the heart of the certificate program is the determination of piece rates which reflect "normal" productivity at "commensurate" wages. This is too often a catch-as-catch-can process. We have urged DOL to devote time, effort and money to improving the ability of workshop managers to handle these concepts properly. Funds to train sheltered workshop personnel should be made available by DOL. One potential source for such funds is CETA which provides training funds for on-the-job training.

We are also concerned that private industry is contracting with sheltered workshops and may do so on terms which depress wages. Workshops are not in a strong bargaining position. As a result the workshop may give an unduely low price in order to get a contract--a price which results in lower wages to handicapped workers. This issue was alluded to by the Wall Street Journal article of January 2, 1980. In our testimony on the NFB petition before the Department of Labor in 1979, we urged DOL to commission an independent study of the contracting practices of major corporations with facilities employing the handicapped. We urge the subcommittee to support this recommendation to DOL.

As part of a national employment policy, other program should be addressed to complement proposed changes to the FLSA.

B. Wage Supplements

One such program is for wage subsidies. The wages earned and public assistance payments to handicapped people in sheltered workshops do not provide an adequate standard of living. Where production limitations do not support such income from wages, the difference should be provided by wage supplements or other income supports. The late Senator Hubert Humphrey introduced the Wage Supplements for Handicapped Individuals Act as an amendment of the Rehabilitation Act of 1973. The bill would have authorized a demonstration wage supplement program. We urge the Subcommittee to explore the idea of such a demonstration program. CETA funds are presently used as a wage supplement for CETA trainees.

C. Javits-Wagner-O'Day Act and Small Business Set-Aside

The Javits-Wagner-O'Day Act and Small Business Set-Aside programs allowing for special procurements to be directed toward sheltered workshops have been beneficial in securing work opportunities to these facilities. These programs should be expanded with a view toward expanding work opportunities in wages and recognizing that the pricing determinations made by the Committee on Purchase for the Blind and Other Severely Handicapped have a direct relationship to wages which can be paid by facilities.

D. Supplemental Security Income and Social Security Disability Insurance

The Supplemental Security Income program (Title XVI, Social Security Act) and the Social Security Disability Income Program (Title II, Social Security Act) provide benefits to disabled individuals. However, these programs contain disincentives to maximizing earnings and gaining competitive employment. If beneficiaries earn more than an allowable amount, not only do they loose the disability benefit payment, but they also loose their eligibility to receive medical benefits from Medicare and Medicaid. As presently structured they must wait an additional two years to be eligible for these benefits even if they again receive the SSI or SSDI disability benefits. The House and Senate has considered this issue in this Congress and has passed measures which eliminate some of these major disincentives. H.R. 3236 was recently reported out of conference. NARF supports those sections of the bill eliminating these disincentives as a first step toward maximizing work incentives and wages.

E. Section 503, Rehabilitation Act

Section 503 of the Rehabilitation Act of 1973 encourages the employment of handicapped individuals by requiring federal contractors to take affirmative action to employ qualified handicapped individuals. As presently written, the regulations issued by the Office of Federal Contract Compliance Programs, DOL, state that contracts with sheltered workshops do not constitute affirmative action in lieu of employment and advancement of qualified handicapped individuals in the contractor's own work force unless the contractor is required to hire the workshop employees. We have been hearing from our members that potential major corporate contractors will not entertain proposals from workshops because they feel that they will be in violation of their 503 obligation. The result is that workshops don't receive contracts, employees don't receive work and wages are not paid. We recommend that these regulations be reexamined.

F. Targeted Tax Credit

Sections 44B and 51 of the Internal Revenue Code allows a tax credit for employers who hire certain members of hard-to-employ populations including vocational rehabilitation referrals. Vocational rehabilitation referrals are people whose physical or mental disability present a substantial handicap to employment and are receiving vocational rehabilitation services as part of an individual vocational rehabilitation plan. Employers should be made more aware of this benefit and the amount of the credit increased as an incentive to employment.

G. Tax Relief for the Disabled

In the 95th Congress, Congressman Walter Flowers of Alabama introduced a bill to provide a deduction for disabled taxpayers who incurred certain personal case services related to the disability. Such a deduction would help many disabled people to obtain or maintain employment. Since that time, Section 44A of the Internal Revenue Code was enacted which provided for a tax credit for certain expenses related to household and dependent care necessary for gainful employment. This section should be expanded to include those points raised by Mr. Flower's bill.

Summary

Mr. Chairman, again let me express our appreciation for this opportunity to present our concerns and recommendations on Section 14(c) of the Fair Labor Standards Act and also to take this opportunity to present an outline for the national employment policy for the disabled.

THREE CASE HISTORIES

Those handicapped individuals in sheltered workshops are the most difficult population served in rehabilitation. Those who do not have competitive employment potential are also the most difficult population for our community rehabilitation facilities. There is no place for them in competitive employment; no place in our national human services programs and no funds to sustain activity for this population. Consequently our sheltered workshops have become employers of last resort for those individuals. Of the 200,000 served daily in sheltered workshops, the following cases are but three typical examples.

Case #1 Miss A is a retarded female with Downs Syndrome, age 25. Her I.Q. is in the low 40's. Father deceased; mother an alcoholic. While a young child she was removed from the home due to neglect and placed into a state institution where she resided for 15 years. During the deinstitutionalization push of recent years Miss A was returned to her community.

Miss A was completely bewildered by her new environment. Due to her extremely low I.Q., inadequate socialization skills and inability to travel independently, she was placed for rehabilitation and training into the workshop. After six months of intensive one-on-one rehabilitation evaluation, training and support, Miss A was placed into the bench assembly section of the workshop where she received close supervision and an adapted work environment. Initial progress was slow, earning only a few cents per hour, but always showing progress. After three years in this tedious workshop assembly job, Miss A's earnings vary from about $400.00 per month to nearly $600.00 per month depending on her productivity. This severely retarded young woman is now the sole support of her alcoholic mother. The workshop will try to place her into a competitive job. However, due to her very low intelligence and inability to make normal minute-to-minute judgements, her requirements for constant supervision, and the non-availability of employment in her rural area, the workshop placement counselor is not getting his hopes up for success outside the workshop.

Case #2 Ms. B is a 45 year old female who is deaf, has no speech and is functionally retarded. Ms. B, because of her inability to hear and speak, was kept by her parents in a back room for 30 years where she became retarded due to lack of stimulation and opportunity for learning. At some point during those years she gave birth to two children. When her elderly parents died Ms. B and her children became Welfare cases. Ms. B was placed into the local sheltered workshop. At entry she had no communication skills beyond grunts and pointing. She had absolutely no work skills or concepts. Ms. B received all the rehabilitation services including instruction in manual communications. As progress was gained in the workshop Ms. B was placed into competitive employment. She soon lost her job due to communications problems, extremely low stress tolerance and an inability to apply basic employment skills, such as regular attendance, punctuality and getting along with co-workers.

Ms. B returned to the sheltered workshop for additional employability training. Twice more Ms. B was placed into a competitive job. Twice more she failed for the same reasons. Ms. B has been unable to operationalize the basic concepts necessary to work in our competitive society. As a last resort Ms. B remains in the workshop where her earnings fluctuate above and below minimum wage based on her piece rate production. But, with her workshop earnings, AFDC for her children and section 8 housing, Ms. B is making it for herself and her family.

Case #3 Mr. C is blind; he is 23 years old and functionally retarded. His language and speech is so poor it is almost unintelligible. He has been institutionalized most of his life. He is now working in a work activities program where he is learning basic self help skills and activities of daily living. He is also learning to work.

On the second floor above the industrial workshop, Mr. C completes a one-step sub-component assembly of an item used in the industrial workshop below. Mr. C is very slow. He frequently sits and rocks back and forth in his chair for minutes at a time. His training supervisor urges him back to work and re-orients him to his work station. Mr. C earns less than $1.00 per hour due to his minimal productivity. Mr. C says, "I'm working!" and grins broadly.

It is unlikely, due to the severity of his multiple handicaps that Mr. C will ever advance to the industrial workshop on the floor below, let alone work outside the workshop, but for now Mr. C is working and he's proud of it.

These are but three cases of the 200,000 per day served in workshops. All are similar but each is unique. These examples illustrate the role that sheltered workshops play in our society. They illustrate that the flexibility afforded by the exception to minimum wage permits rehabilitation to occur while still providing for growth toward a self-sustaining productivity level. They illustrate the dignity of self-worth achieved through "carrying your own weight". But they also illustrate the increasing growth in the populations of sheltered workshops because of the unemployability of large numbers of handicapped persons.

STATEMENT OF JAMES ALLEN COX, JR., EXECUTIVE DIRECTOR, NATIONAL ASSOCIATION OF REHABILITATION FACILITIES

Mr. Cox. Thank you, Mr. Chairman.

I am Allen Cox, executive director of the National Association of Rehabilitation Facilities. Since we have submitted an extensive statement for the record to your staff, I will speak briefly to the major points that I believe the committee should consider in regard to this bill.

Mr. Beard. Your statement will be incorporated into the record and you may proceed.

Mr. Cox. Thank you.

Our association consists of participation by over 1,000 community agencies involved in serving physically and mentally disabled people. Many of these community agencies operate sheltered workshops and/or work activity centers. The magnitude of the problem that we face in examining the Department of Labor subminimum wage program impacts on over 1,700 workshops and 3,000 work activity centers serving more than 200,000 people annually throughout the country.

The predominant majority of these people have mental retardation or other mental health or emotional difficulties that result in their involvement in the work activity or workshop employment. In these environments, according to volume 2, Sheltered Workshop Study, conducted by the Department of Labor, the typical client is 25 years old, white, mentally retarded, male, never married, living in a dependent type arrangement, works approximately 20 hours per week at a subcontract job involving intensive manual labor, earning an average of 43 cents per hour in a work activity setting, and his monthly earnings of $31 are supplemented by public assistance at an average of $147.

Since 1973, the number of work activity centers in this country has increased from 1,418 to 3,079. During the same period, the number of sheltered workshops has increased from 1,056 to 1,691. The implication is that the majority of the people engaged in work activity experience are not able to go into sheltered workshops and are, in fact, a result of our Nation's deinstitutionalization.

I will give you some case histories. Handicapped individuals in sheltered workshops are the most difficult population served in rehabilitation. Those who do not have competitive employment potential are also the most difficult population for our community rehabilitation facilities. There is no place for them in competitive employment, no place in our national human services programs, and no funds to sustain activity for this population. Consequently, our sheltered workshops have become employers of last resort for those individuals. Of the 200,000 served daily in sheltered workshops, the following cases are but three typical examples.

CASE NO. 1

Miss A is a retarded female with Downs syndrome, age 25. Her IQ is in the low forties; father deceased, mother an alcoholic. While a young child, she was removed from the home due to neglect and placed into a State institution where she resided for 15 years. During the deinstitutionalization push of recent years, Miss A was returned to her community.

Miss A was completely bewildered by her new environment. Due to her extremely low IQ, inadequate socialization skills, and inability to travel independently, she was placed for rehabilitation and training into the workshop. After 6 months of intensive one-on-one rehabilitation evaluation, training, and support, Miss A was placed into the bench assembly section of the workshop where she received close supervision and an adapted work environment. Initial progress was slow, earning only a few cents per hour, but always showing progress. After 3 years in this tedious workshop assembly job, Miss A's earnings vary from about $400 per month to nearly $600 per month, depending on her productivity. This severely retarded young woman is now the sole support of her alcoholic mother. The workshop will try to place her into a competitive job. However, due to her very low intelligence and inability to make normal minute-to-minute judgments, her requirements for constant supervision, and the nonavailability of employment in her rural area, the workshop placement counselor is not getting his hopes up for success outside the workshop.

CASE NO. 2

Ms. B is a 45-year-old female who is deaf, has no speech, and is functionally retarded. Ms. B, because of her inability to hear and speak, was kept by her parents in a back room for 30 years where she became retarded, due to lack of stimulation and opportunity for learning. At some point during those years, she gave birth to two children. When her elderly parents died, Ms. B and her children became welfare cases. Ms. B was placed into the local sheltered workshop. At entry, she had no communication skills beyond grunts and pointing. She had absolutely no work skills or concepts. Ms. B received all of the rehabilitation services, including instruction in manual communications. As progress was gained in the workshop, Ms. B was placed into competitive employment. She soon lost her job due to communications problems, extremely low stress tolerance, and an inability to apply basic employment skills, such as regular attendance, punctuality, and getting along with coworkers.

Ms. B returned to the sheltered workshop for additional employability training. Twice more Ms. B was placed into a competitive job. Twice more she failed for the same reasons. Ms. B has been unable to operationalize the basic concepts necessary to work in our competitive society. As a last resort, Ms. B remains in the workshop where her earnings fluctuate above and below minimum wage, based on her piece rate production. With her workshop earnings, AFDC for her children, and section 8 housing, Ms. B is making it for herself and her family.

CASE NO. 3

Mr. C is blind, he is 23 years old, and functionally retarded. His language and speech is so poor it is almost unintelligible. He has been institutionalized most of his life. He is now working in a work activities program where he is learning basic self-help skills and activities of daily living. He is also learning to work.

On the second floor above the industrial workshop, Mr. C completes a one-step subcomponent assembly of an item used in the industrial workshop below. Mr. C is very slow. He frequently sits and rocks back and forth in his chair for minutes at a time. His training supervisor urges him back to work and reorients him to his work station. Mr. C earns less than $1 per hour due to his minimal productivity. Mr. C says, "I'm working!" and grins broadly.

It is unlikely, due to the severity of his multiple handicaps, that Mr. C will ever advance to the industrial workshop on the floor below, let alone work outside the workshop, but for now Mr. C is working and he's proud of it.

These are but three cases of the 200,000 per day served in workshops. All are similar but each is unique. These examples illustrate the role that sheltered workshops play in our society. They illustrate that the flexibility afforded by the exception to minimum wage permits rehabilitation to occur while still providing for growth toward a selfsustaining productivity level. They illustrate the dignity of self-worth achieved through carrying your own weight, but they also illustrate the increasing growth in the populations of sheltered workshops because of the unemployability of large numbers of handicapped persons.

In order to appreciate the impact of the bill before you, as you correctly observed this morning, we must fully consider the work activity clients, a very substantial population. In fact, the larger population is engaged in work activity. I believe we must consider the implications on the nonblind disability groups, such as those that I have referenced, which are the majority of the 200,000 people presently enrolled under those certificates. In fact, only less than one-fifth of that population had any physical disability, suggesting further that we are dealing with a population that is substantially mental disability in nature.

What we need to address are the dual issues of productivity as well as income maintenance. The fact is that our Nation does not have an employment policy for disabled people in this country. We do have a Department of Labor subminimum program. You heard Secretary Elisburg's statement. The agencies engaged in serving these people were founded on humanitarian concerns. They generally approach their task with a sincere dedication to service and with an active participation by the State rehabilitation agency. The staff, however, are admittedly weak in the area of wage determination. We have called upon the Department of Labor to utilize CETA funds to train employees in sheltered workshops in the area of wage determination.

The technology of wage determination, if more accurately applied, might yield higher earnings for the employees in these environments, but the real issue is one of productivity. Ultimately the process in the workshop must be based on the productivity of the individual if the economic process is to prevail, to live, to endure, and provide work for this population. These people are in these programs hopefully as a function of the transitional rehabilitation process that should be at work in most of our States under the authority of the Rehabilitation Services Administration.

The people in sheltered workshops and work activity centers should be there because the transition process has not been able to place them in competitive employment. If they are capable, they should be moved out. They should not be terminally placed in workshops if there is any potential for their gaining and holding competitive employment in the community. If they are terminally placed in workshops, then we need the active participation by the Department of Labor to insure that the technology of wage determination in those workshops is adequate and is accurate. We need that training, we need that active participation. There are a number of elements within our Federal policy which must be examined over and above the issue of minimum wage.

Certainly we should not confuse minimum wage with the right of these people to a commensurate wage. Often this morning we have talked of minimum wage, but it should be noted that for a given activity the commensurate wage in that community should be based on the prevailing wage. The elements of policy extend beyond the Fair Labor Standards Act and the regulations therein. An important aspect to our agencies is the requirement in the regulation which prohibits integration of work activity clients in sheltered workshops. They are required to be physically segregated.

We have found in our work with retarded persons that the role modeling that occurs when you place a WAC client with a regular program sheltered workshop client can often result in substantial increases in productivity. We have appealed to the Secretary to allow permissive integration of work activity clients, low functioning clients with higher functioning clients where it is in the best interest of the clients for normalization purposes and where it will not deter from the productivity of the more capable clients.

You have noted this morning the comments regarding the intensive labor required in most sheltered workshop situations. This is because of a lack of capital funding. There has been no investment in modernizing plants, equipment, or other capital items necessary. These agencies grew out of community humanitarian efforts—cast off equipment, machinery, and other goods that industry and the community would donate to them. To be sure, there has been some limited investment by the larger workshops, but this is quite small.

The majority of the work today in workshops and work activity centers is very labor intensive and, in fact, there is no industrial counterpart for much of the work that is being done which further confuses the issue of commensurate wages. We need a commitment from the Department of Labor, from the relevant areas and the Department of Health and Human Services to develop programs and expertise, but also to bring in the latest in technology and capital investment support to these agencies.

We need in our Federal policy expansion of the existing programs which provide work activities and work opportunities and wages for clients, specifically in the provisions of Wagner-O'Day. The Government procurement opportunities that exist need streamlining. There is a very complicated administrative process involved. Most workshops, in fact, cannot take advantage of the opportunity under Wagner-O'Day.

You heard General Fletcher testify that few can take advantage of that Government set-aside program. We have called upon the Department of Labor to initiate yet another study, which we think is long overdue, in analyzing the relationship between workshops and private firms contracting for goods and services. You heard a reference this morning of a local agency involved in the board of directors and yet providing the contract work. The fact is that workshops exist on the residuals or the dregs of private enterprise and they exist to provide an alternative environment for the mentally disabled population within their ranks.

We believe that workshops have been unfairly taken advantage of by private industry in some cases, one played off the other to hold down the cost of industry. We have called upon DOL to assist us by looking into these contractual relationships and wherever necessary help us insure that the market price being paid to the workshop is competitive and fair and at the prevailing rate.

Most importantly, Mr. Chairman, we need to examine the impact of our social security policy on this population. We need to modify income maintenance programs, particularly supplemental security income and disability income to eliminate the disincentives to work. Many workers would desire to work more hours and have higher earnings, but then they lose those all important medical benefits. Further, they would lose cash assistance. We have worked for amendments in this area and will work for the coalition of other advocacy organizations to see that the medical provisions are not removed from those who desire to work and support themselves and, in fact, could perhaps support the coinsurance above a certain level.

Further, we need to reexamine the issue of wage subsidy, first raised in the Humphrey-Hawkins bill. Many of our people will never be able to earn an adequate wage—and here we are talking about, Mr. Chairman, in income maintenance policy. The burden of income maintenance for our less productive citizens should not fall on the workshops or on the State, but in fact we should examine the relevant areas of CETA, of HHS, and find where we can provide income support and, as many States have done, a model wage subsidy program.

Also, the Rehabilitation Act of 1973 contains section 503, encouraging employment of handicapped individuals. We have called upon the Secretary of Labor and upon the Commissioner of the Rehabilitation Service Administration to consider the stimulus of granting to industry, under appropriate safeguards, affirmative action credit for giving work at prevailing rates to sheltered workshops.

We believe the targeted jobs tax credit program for employers should be expanded and extended so that the employers are more aware of that benefit, and the amount of credit should be further increased to take people out of sheltered workshops and into industry. We believe further that tax relief for the disabled under section 44(a) of the Internal Revenue Code should be expanded, related to the disability of the individual, again, to provide them further support to move into the community.

We believe that the placement opportunities under the projects with industry program of the Rehabilitation Service Administration should receive an increased appropriation and increased priority. Finally, we believe that you cannot consider the environment of workshops and work activity centers without also considering supportive services. In this area we have the opportunity for investment in the future productivity of our citizens.

If appropriation for this important area is curtailed or limited, we are, in fact, incurring future liabilities and future costs because we are not going to have the capability for training, adapting, and moving people out of workshops and into independence.

We have an active partnership between the Federal Government and the private sector and the advocacy movement to resolve the disincentives, the abuse of rights, and the problems that exist in workshops and work activity centers. We need to do this, not as a single issue of income or single issue of minimum wage, but as a need for a comprehensive and coordinated Federal policy impacting a variety of areas.

Thank you, Mr. Chairman.

Mr. BEARD. Mr. Cox, that was an excellent statement. We have a series of questions. For the sake of time, we will submit these questions to you and you can answer them.

Mr. COX. Very good.

[Information submitted by James A. Cox appears in the appendix.]

Mr. BEARD. Mr. Stephens?

Mr. STEPHENS. Thank you, Mr. Chairman.

Mr. Cox, I am curious about the work activity center standard and your suggestion in your testimony. That seems to suggest that that center may be engaged in productive commercial enterprise. Is that a fair inference?

Mr. COX. Mr. Stephens, the work productivity of work activity centers is largely inconsequential as a function of major productivity. The goods and services provided by sheltered workshops and their employees are generally what is receiving attention this morning. Work activity centers, particularly with their high numbers of retarded persons, grew out of the old title XVI social security program which provided adult day care activity. In many States, this type of activity is supported under what is today title IV or title VI which became title XX. It is inconsequential, the production of goods and services derived from sheltered workshops.

Mr. STEPHENS. Do these work activity centers turn out products, then, that are sold commercially?

Mr. COX. Generally speaking, no. The work activity centers may exist as a program or activity in a community agency which has a community workshop. There may be workers whose productivity has increased so they can engage in the sheltered workshop function.

Mr. STEPHENS. So they are given work which does not necessarily result in a commercial product, but it will train them potentially to transfer over into a sheltered workshop?

Mr. COX. That is right.

Mr. STEPHENS. Do you know of any work activity centers that produce any commercial products, make any money?

Mr. COX. Let me offer an example. A small sheltered workshop in Durango, Colo., an extremely rural area, has a work activity and a sheltered workshop. The principal activity is the packaging of fishhooks and other related fishing tackle under a contract. It is manual in nature. The income derived from that goes to the clients, principally in wages. Work activity clients also are engaged in packaging fishhooks. They are, in fact, producing fishing tackle for that company and are receiving the bulk of the earnings under that contract.

Mr. STEPHENS. The fishhooks packaged will be put in a box and sold with the hooks that are packaged over in the sheltered workshop?

Mr. Cox. Yes. It is a related activity.

Mr. STEPHENS. So they do contribute, then, to the total production of the commercial product?

Mr. Cox. In that sense.

A technical point is the adjustment of computing the wage ceiling for work activity centers. There is a gap between the 25-percent floor, the 50-percent floor for individual workshops, and we have spelled out a technical amendment in that area which might be of interest to you in this regard.

Mr. STEPHENS. Thank you.

Mr. BEARD. Thank you very much, Mr. Cox.

Mr. Cox. Thank you.

Mr. BEARD. The last witness of the day is Mr. Joseph Larkin, president of the General Council, Workshops for the Blind.

Mr. Larkin?

[The prepared statement of Joseph J. Larkin follows:]

PREPARED STATEMENT OF JOSEPH J. LARKIN, PRESIDENT, GENERAL COUNCIL OF WORKSHOPS FOR THE BLIND

Mr. Chairman and members of the Committee, we are pleased to appear here today to provide information on sheltered workshops and to address the impact on these programs that possible changes to Section 14(c) of the Fair Labor Standards Act would have. I represent the General Council of Workshops for the Blind and currently serve as its President.

The General Council is an organization established in 1938 as an outgrowth of Congressional enactment of the Wagner-O'Day Act. It serves as a counter balance between National Industries for the Blind and the blind persons being offered service in 101 workshops for the blind located in 35 states, Puerto Rico and the District of Columbia. These workshops employ 5,035 blind persons and their reported average hourly wage in fiscal 1979 was $3.24 per hour at a time when the statutory minimum wage was $2.90 per hour.

The activities and responsibilities of the General Council focus primarily on the goal to develop gainful employment for every blind person, regardless of disabilities in addition to blindness, who can and wants to work. The Council over the years has contributed significantly to the development of legislation beneficial to these clients and monitors, through its joint legislative committee, all legislation affecting blind persons and agencies serving them. The development of client service programs represents a significant activity of the Council and we work closely with National Industries for the Blind and the workshops themselves in the identification, development and implementation of such programs. It is interesting to note that of the 5,035 blind persons employed in our workshops in fiscal 1979, 55% or 2,797 of the total population have other severe handicaps in addition to blindness. This necessitates the development and encouragement of supportive services. Such services should not be misunderstood to mean only vocational services but includes low vision services, mobility services, social services, personal management services, rehabilitation counseling, communication services and a variety of other services that the blind person may feel are necessary to achieve their full productivity potential. Product development is recognized as the key to growth and our Sales Committee, in cooperation with National Industries for the Blind, contributes meaningfully in the selection of products best suitable for limited blind people. Many of the workshops associated with the Council provide input to the National Industries for the Blind engineering staff concerning the need for a particular fixture or the machine modification needed to accommodate a blind operator. In fact, the basis of most all of this engineering starts at the job site in the various workshops. The effectiveness of the General Council role can best be described by its direct involvement and input through the Board of Directors of National Industries for the Blind regarding the administration of overall program, product development, service problems and solutions, growth development and, among others, engineering and research. In effect, we function as an oversight or watchdog group to insure the prudent operation of a program designed to provide opportunities for the people we are privileged to serve. The General Council of Workshops for the Blind consider Section 14 (c) of the Fair Labor Standards Act to be just and equitable. It has served the handicapped community well and we support its continuance as presently regulated.

Perhaps a brief review of the history of workshops for the blind characterizing their past and present, together with a projection of the future, might be helpful in analyzing the impact or detrimental effects changes to 14(c) of the Fair Labor Standards Act could bring about.

The sheltered workshop was the spearhead of work for the adult blind in the United States. The first such workshop was established in 1840 as a department of Perkins Institution and Massachusetts School for the Blind (now known as Perkins School for the Blind). Operated on the school's grounds, its purpose was to provide employment for the graduates of the school, which had been established some eight years earlier. When it became apparent that the education of blind children and the employment of blind adults could not be served to best advantage in a single program, the workshop was separated from the school. In 1850 it was established as a separately operated division of the institution.

The great majority of blind persons lose their sight after school age; from this it follows that blind people as a whole were neither reached by training programs provided in schools for the blind nor could they be adequately served by workshops operated by such schools primarily for the benefit of their former pupils. The latter half of the nineteenth century consequently witnessed the establishment of a number of sheltered workshops independent of schools for the blind. These adopted the structure of working homes or industrial homes, reflecting the prevalent feeling that blind persons constituted a homogeneous group with a common need for custodial care and useful occupation.

Over the years, the employment opportunities offered by sheltered workshops were gradually extended to blind persons who did not require domiciliary care. The General Council and National Industries for the Blind encouraged workshop administrators to begin to recognize that blind people had important needs beyond those of residence and occupation and that many had potentialities which could not be fulfilled in sheltered employment.

Home teaching, social casework, industrial placement and other services that reached beyond the premises began to augment and reshape the service program of the sheltered workshops. Candidates for sheltered employment were helped in their homes to improve their readiness for employment. Clients of sheltered workshops were helped to cope with psychological, social and economic problems that extended beyond (though they often had a bearing on) their success in employment.

The body of experience developed through this broadening range of services opened possibilities for extension of help to blind persons whose needs did not include either sheltered employment or special residence. Programs for such persons were developed by state commissions for the blind and other governmental and voluntary multiservice agencies. The workshops themselves, prior to World War II, remained primarily concerned with sheltered employment; their other services were considered ancillary. Nevertheless, these other services were growing and claiming an increasing portion of the workshop's budget. In terms of clientele, staff and supervision, they soon equalled the sheltered employment programs in importance. In the period since World War II many workshops for the blind have, therefore, expanded into multiservice social agencies.

The passage in 1938 of the Wagner-O'Day Act — which, under stipulated conditions, gave priority to purchase by the federal government of goods produced by the blind second only to the priority held by goods produced in federal prisons — provided an important market for the output of workshops. There is little doubt that the most important event in the developing of employment opportunities for blind persons was the passage of this Act. During the period immediately preceding World War II, and continuing through the civilian market replenishment following the war, sheltered workshops for the blind found a larger market for their products. This resulted in the rapid growth of some; in certain cases, agencies concentrated virtually all their attention on the workshop service. At that time, programs for placement of blind persons in competitive industry were relatively inadequate; in many communities the best employment opportunities for blind workers were in sheltered workshops.

The marked expansion of rehabilitation resources which began with the passage of the Barden-LaFollette Act in 1943 produced a number of results that had a bearing on sheltered workshops for the blind.

Many blind persons who might previously have been candidates for employment in sheltered workshops now found it possible to enter professional and technical employment or to operate independent business enterprises. The generally favorable experience with the employment of blind workers in regular industry during World War II enabled more blind workers to find employment in regular industry than had ever before been possible over any protracted period of time. This siphoning off of the more competent workers made for a decline in the average level of ability represented by the clients who remained in the workshops. In sections of the country in which adequate training and placement services became available, the decline was quite sharp; even in other sections, it was perceptible and increased as the demonstrated value of training and placement services lead to their wider use on behalf of blind persons.

Twelve years ago the General Council and National Industries for the Blind recognized the need to assist workshops to realize the value of specific professional supportive services and established a separate Rehabilitation Services Department. Almost immediately the expansion of rehabilitation resources had an impact on multi-handicapped groups. Where sheltered employment for some of these groups had not previously developed, improved and expanded rehabilitation programs made it possible to serve handicapped persons whose rehabilitation had formerly been considered "non-feasible". Work with these persons gave rise to an increased need for sheltered workshops and they began to increase in size and number.

Both the General Council and National Industries for the Blind recognized that the blind persons workshops would be serving from this point forward require increased extensive and competent training and effective supportive services if they were to realize their individual potentialities. The type of blind person who requires the services of a sheltered workshop today poses a major challenge to workshop specialists on all levels of administration and service. Sheltered workshop programs must be carefully planned and efficiently operated. Staff must understand the special problems of blindness and be able to work cooperatively with a variety of professional specialists to bring each person served the kind of help he needs and can use.

Fifteen years ago in 1964, only 13% of the total blind population receiving service in General Council affiliated workshops had other severe handicaps in addition to blindness. Today better than 55% of our workshop population are multihandicapped and that figure is growing rapidly. Within the next year the offspring of the rubella epidemic of the early 1960's will present to us another challenge. The rubella babies from that plague will become of vocational age and will be seeking work opportunities that only sheltered workshops can provide. The vast majority of them are blind or deaf-blind and, in addition, many have sustained severe brain damage. Few of them, if any, will be capable of attaining placement in the private sector. However, with the benefit of long and patient supportive services, they will achieve their maximum potential in the workshops and thus be afforded the dignity and self-respect they are entitled to. We firmly believe that repeal of 14(c) or any modification thereof would create fiscal burdens that workshops could not absorb and consequently the less productive blind worker who most needs the service will recede into oblivion by sliding backward off the end of a waiting list.

It has been suggested that any handicapped individual who makes the effort to go to work deserves at least the statutory minimum wage. No compassionate person can quarrel with this thesis but no amount of compassion alone can disregard the constraints of reality. Workshops associated with the General Council of Workshops for the Blind comply with the regulations of the Fair Labor Standards Act. Compliance is assured through the payment of minimum wage or better, or through the use of certificated wage rates that are approved annually by the Wages and Hours Division of the Department of Labor. Piece rates and hourly rates must be established and substantiated on the basis of the prevailing geographical wage rates for like operations in private industry within the immediate vicinity of the workshop. A blind worker is paid wages commensurate with at least the minimum wages paid non-handicapped workers in like industry in the same geographical area. Thus there is no inequitable differential between what the blind worker earns and the sighted worker earns for the same amount of productivity. It is our belief that the 14(c) program, based on productivity, has worked well and fairly rewards the production capabilities of the handicapped employee.

The payment of the statutory minimum wage to handicapped individuals in sheltered workshops who are unable to earn a substantial portion of this wage might rob these workers of the incentive to exert their best efforts and render best effort productivity meaningless: If a handicapped worker in a sheltered workshop, for example, finds that, with ordinary application, he can earn $1.50 an hour and that, with a reasonable degree of extra application, he can increase his earning ability by 30%, he would have no incentive to put forth any extra effort to increase his earning ability if he were to receive the minimum wage regardless of his productivity. In addition, the blind worker who can earn and does apply himself diligently notices others receiving the same pay for less effort, he quickly becomes frustrated and discouraged. Consequently we inhibit his motivation toward increased upward mobility and in reality encourage less productivity.

If workshops were mandated to pay no less than the minimum wage and supplement those not capable of achieving the commensurate productivity, they would be forced to deprive limited blind persons who benefit from it most, of the only work opportunities available to them. It simply would not be feasible for workshops to absorb the additional financial burden. Workshops associated with the General Council presently provide supplemental wages to limited blind persons who cannot meet the authorized certificated wage rates. During fiscal year 1979, this supplement amounted to $1,044,429. Should they be required to bring all blind workers up to the current statutory minimum of $3.10 per hour, it is estimated it would cost an additional $2,900,000 or a total wage supplement of $4,000,000. If this were to happen, programs for the multihandicapped in many workshops would be severely curtailed and supportive services in most cases would be limited. This would be contrary to the mandates of the amended Rehabilitation Act of 1973 that clearly establishes a priority for services to the multihandicapped.

The concept of paying not less than the minimum wage to all blind workers in a workshop, regardless of productivity limitations, has been tested within the last few years and has failed. In testimony before this Committee on

May 10, 1978, Mr. W. Harold Bleakley, President of the Center for the Blind in Philadelphia, Pennsylvania, testified: "There are those who will say that it is not possible to pay at least the minimum wage to blind persons working in sheltered shops. There are those who will say that if H.R. 8104 passes there will be blind multiply-handicapped men and women thrown out of work because the agencies for the blind cannot afford to subsidise their wages up to the level of the minimum wage." Further on in his testimony he said: "Let me tell you the story of the Center for the Blind in Philadelphia. When I became President of the Center for the Blind in April of 1974, many of the employees were receiving less than minimum wage. Much of the equipment was old and worn out. There was no marketing program except for the sale of products to the U. S. Government and the Commonwealth of Pennsylvania. Today, every employee is paid at least the minimum wage. There is no maneuvering on this point. Every employee receives at least $2.65 per hour for every hour he works. How did we accomplish this? It was a combination of various steps, all of which are standard operating practice in manufacturing industry. We obtained grants to purchase new equipment. We discontinued making a number of products that the public didn't want. We developed a production and inventory control system, a purchasing system and a marketing program designed to move the merchandise for sale. We established a cost accounting system and employed a full-time industrial engineer. We established a new product development department. We brought in capable management personnel. You may ask, how these steps make it possible for a blind, multiply-handicapped person to become productive. If the job to be done is a hand-craft operation, then the person doing the job must have a rather high degree of skill. If his only problem is blindness, he probably will be productive since blindness in and of itself does not affect productivity. However, if in addition to blindness he is mentally retarded, he may not be productive. Now let's assume that that same individual with his additional handicap is working on an automatic machine in which his job is essentially pushing buttons. He will obviously be much more productive than in the former situation. If in addition, the industrial engineering department has developed standard work methods and an organized course of training exists, the individual can be brought to his maximum potential. Certainly, in view of the fact that $2.65 per hour is not really very much money, he can be paid at least the minimum wage. The average factory worker's earnings in competitive industry are far higher than this."

The Center for the Blind in Philadelphia, an agency in continuous operation since 1874, and the oldest private agency for the blind in the United States, filed a petition of bankruptcy on May 8, 1979. According to Mr. Bleakley's testimony, the Center had secured top management, installed new modern equipment, changed its products line to mass produced items, established training programs and were able to pay everyone the minimum wage. On December 8, 1978, in a letter to unsecured creditors of the Center for the Blind it stated, "recently Center for the Blind has increased extensive losses in the operation of its workshop and the operation of its school for blind children." The 17-month statement of operations presented showed a loss for this period of $1,389,000, of which $1,000,000 was attributed to the workshop operation. One must conclude that it is simply not feasible to pay the minimum wage without regard to the productivity of the blind workers employed.

Other ramifications that would result from the repeal of Section 14(c), if applied only to the blind, concern the inequitable position blind workshops would be presented with. Workshops for the other severely handicapped would not have to supplement their client wages and consequently would derive a competitive advantage in the marketplace. Workshops for the blind depend upon the government and commercial markets and if manufacturing costs exceed *fair* market prices, then we have lost our markets. Consequently we then lose our ability to generate work opportunities for blind workers.

A number of statements have been made alleging that clients in workshops for the blind are abused or mistreated. These statements are simply not true. One need only consult the Sheltered Workshop Study of the U. S. Labor Department, Volume II, Study of Handicapped Clients in Sheltered Workshops, dated March, 1979, to confirm the fantasy of such allegation. In the section headed, "Client Evaluation of Effect of Workshop Experience" Page A-109, Table 19A, it states that of the 6, 051 visually impaired clients queried as to the fairness of treatment they received in the workshop, 51.9% answered very fair, 43.1% answered fair. This certainly does not indicate abuse or mistreatment.

In closing, I would like to point out that we are not here to address you on the fact that blind persons should not earn the minimum wage. As a matter of fact, we feel that the minimum wage is not a living wage and would suggest that the blind people whom we serve in our vocational programs should have an income great enough for them to enjoy the same privileges that sighted blue collar workers enjoy. However, we are talking about two things, earnings and income. In our society earnings are based on, among other things, ability, skill, adaptability and total application. The earnings of blind persons generally in the General Council and National

Industries for the Blind programs are to a large degree dependent on the services that can be provided to improve earning ability. We stand proudly and erect as far as our efforts in this area are concerned. Many years ago, a number of us in the field of services for the blind asked that the Federal Government provide sheltered workshops for the blind which meet the standards of the Wage and Hour Division of the U. S. Department of Labor for the operation of such workshops with subsidies sufficient to meet all or a necessary substantial part of the cost of paying the statutory minimum wage to blind workers of low productivity in sheltered workshops. This request, with some variations, has been made over the years by the operators of sheltered workshops for workers with handicaps other than blindness; but the practice it embraces has not been implemented. Perhaps with the Federal Government's interest in income maintenance in recent years, the idea of subsidizing sheltered workshops on the basis of the difference between the actual earnings of their handicapped workers and their payment of the statutory minimum wage to these workers might now be seriously considered by the Federal Government.

I thank the Committee, on behalf of our member workshops, for the opportunity of sharing our views with you.

STATEMENT OF JOSEPH J. LARKIN, PRESIDENT, GENERAL COUNCIL OF WORKSHOPS FOR THE BLIND

Mr. **Beard.** Mr. Larkin, you are out of New York?

Mr. **Larkin.** Yes, sir, I am.

Mr. **Beard.** Do you have a statement?

Mr. **Larkin.** Yes.

Mr. **Beard.** It will be accepted totally in the record.

Try to keep your oral presentation short.

Mr. **Larkin.** Mr. Chairman, I know the hour is late, but I wonder if I could indulge the committee's patience for about 4 or 5 seconds to recognize a remarkable performance. I have been sitting here for several hours watching this stenographic recorder here at the hearing. Gentlemen, she has gone at a remarkable pace. She has not interrupted any of the speakers. I just think she has done such a remarkable job she should be recognized.

Mr. **Beard.** Absolutely.

Mr. **Larkin.** Incidentally, in our system we have placed a number of blind stenographic operators and hopefully they do the same kind of fine job that this girl is doing.

Mr. **Beard.** Excuse me for a second. You know, once in a while it is nice that people recognize the people that work around them. I think that is a good point.

Mr. **Larkin.** Mr. Chairman, we are pleased to appear here today to provide information on sheltered workshops and to address the impact on these programs that possible changes to section 14(c) of the Fair Labor Standards Act would have. I represent the General Council of Workshops for the Blind and currently serve as its president.

I have with me Mr. Harold Richterman, director of the Rehabilitation Services Division of the National Industries for the Blind, and on my left Mr. LeRoy Saunders, executive director of the Oklahoma League for the Blind.

The General Council is an organization established in 1938 as an outgrowth of congressional enactment of the Wagner-O'Day Act. It serves as a counterbalance between National Industries for the Blind and the blind persons being offered service in 101 workshops for the blind located in 35 States, Puerto Rico, and the District of Columbia. These workshops employ 5,035 blind persons, and their reported average hourly wage in fiscal 1979 was $3.24 per hour at a time when the statutory minimum wage was $2.90 per hour.

The activities and responsibilities of the General Council focus primarily on the goal to develop gainful employment for every blind person, regardless of disabilities in addition to blindness, who can and want to work. The council over the years has contributed significantly to the development of legislation beneficial to these clients and monitors, through its joint legislative committee, all legislation affecting blind persons and agencies serving them. The development of client service programs represents a significant activity of the council and we work closely with National Industries for the Blind and the workshops themselves in the identification, development, and implementation of such programs.

It is interesting to note that of the 5,035 blind persons employed in our workshops in fiscal 1979, 55 percent of the total population have other severe handicaps in addition to blindness. This necessitates the development and encouragement of supportive services. Such services should not be misunderstood to mean only vocational services, but includes low vision services, mobility services, social services, personal management services, rehabilitation counseling, communication services, and a variety of other services that the blind persons may feel are necessary to achieve their full productivity potential.

Product development is recognized as the key to growth, and our sales committee, in cooperation with National Industries for the Blind, contributes meaningfully in the selection of products best suitable for limited blind people. Many of the workshops associated with the council provide input to the National Industries for the Blind engineering staff concerning the need for a particular fixture or the machine modification needed to accommodate a blind operator. In fact, the basis of most all of this engineering starts at the job site in the various workshops.

The effectiveness of the General Council role can best be described by its direct involvement and input through the board of directors of National Industries for the Blind regarding the administration of overall program, product development, service problems and solutions, growth development, and, among others, engineering and research. In effect, we function as an oversight or watchdog group to insure the prudent operation of a program designed to provide opportunities for the people we are privileged to serve. The General Council of Workshops for the Blind consider section 14(c) of the Fair Labor Standards Act to be just and equitable. It has served the handicapped community well and we support its continuance as presently regulated.

Perhaps a brief review of the history of the workshops for the blind characterizing their past and present, together with a projection of the future, might be helpful in analyzing the impact or detrimental effects changes to 14(c) of the Fair Labor Standards Act could bring about.

The sheltered workshop was the spearhead of work for the adult blind in the United States. The first such workshop was established in 1840 as a department of Perkins Institution and Massachusetts School for the Blind, now known as Perkins School for the Blind. Operated on the school's grounds, its purpose was to provide employment for the graduates of the school, which had been established some 8 years earlier. When it became apparent that the education of blind children and the employment of blind adults could not be served to best advantage in a single program, the workshop was separated from the school. In 1850 it was established as a separately operated division of the institution.

The great majority of blind persons lose their sight after school age; from this it follows that blind people as a whole were neither reached by training programs provided in schools for the blind nor could they be adequately served by workshops operated by such schools primarily for the benefit of their former pupils. The latter half of the

19th century, consequently, witnessed the establishment of a number of sheltered workshops independent of schools for the blind. These adopted the structure of working homes or industrial homes, reflecting the prevalent feeling that blind persons constituted a homogeneous group with a common need for custodial care and useful occupation.

Over the years, the employment opportunities offered by sheltered workshops were gradually extended to blind persons who did not require domiciliary care. The General Council and National Industries for the Blind encouraged workshop administrators to begin to recognize that blind people had important needs beyond those of residence and occupation and that many had potentialities which could not be fulfilled in sheltered employment. Home teaching, social casework, industrial placement, and other services that reached beyond the premises began to augment and reshape the service program of the sheltered workshops. Candidates for sheltered employment were helped in their homes to improve their readiness for employment. Clients of sheltered workshops were helped to cope with physiological, social, and economic problems that extended beyond—though they often even had a bearing on—their success in employment.

The body of experience developed through this broadening range of services opened possibilities for extension of help to blind persons whose needs did not include either sheltered employment or special residence. Programs for such persons were developed by State commissions for the blind and other governmental and voluntary multiservice agencies. The workshops themselves, prior to World War II, remained primarily concerned with sheltered employment; their other services were considered ancillary. Nevertheless, these other services were growing and claiming an increasing portion of the workshop's budget. In terms of clientele, staff, and supervision, they soon equaled the sheltered employment programs in importance. In the period since World War II, many workshops for the blind have, therefore, expanded into multiservice social agencies.

The passage in 1938 of the Wagner-O'Day Act—which, under stipulated conditions, gave priority to purchase by the Federal Government of goods produced by the blind second only to the priority held by goods produced in Federal prisons—provided an important market for the output of workshops. There is little doubt that the most important event in the developing of employment opportunities for blind persons was the passage of this act.

During the period immediately preceding World War II and continuing through the civilian market replenishment following the war, sheltered workshops for the blind found a larger market for their products. This resulted in the rapid growth of some; in certain cases, agencies concentrated virtually all their attention on the workshop service. At that time, programs for placement of blind persons in competitive industry were relatively inadequate; in many communities the best employment opportunities for blind workers were in sheltered workshops.

The marked expansion of rehabilitation resources which began with the passage of the Barden-LaFollette Act in 1943 produced a number of results that had a bearing on sheltered workshops for the blind.

Many blind persons who might previously have been candidates for employment in sheltered workshops now found it possible to enter professional and technical employment or to operate independent business enterprises. The generally favorable experience with the employment of blind workers in regular industry during World War II enabled more blind workers to find employment in regular industry than had ever before been possible over any protracted period of time. This siphoning off of the more competent workers made for a decline in the average level of ability represented by the clients who remained in the workshops. In sections of the country in which adequate training and placement services became available, the decline was quite sharp; even in other sections, it was perceptible and increased as the demonstrated value of training and placement services led to their wider use on behalf of blind persons.

Twelve years ago, the General Council and National Industries for the Blind recognized the need to assist workshops to realize the value of specific professional supportive services and established a separate rehabilitation services department. Almost immediately, the expansion of rehabilitation resources had an impact on multihandicapped groups. Where sheltered employment for some of these groups had not previously developed, improved and expanded rehabilitation programs made it possible to serve handicapped persons whose rehabilitation had formerly been considered nonfeasible. Work with these persons gave rise to an increased need for sheltered workshops, and they began to increase in size and number.

Both the General Council and National Industries for the Blind recognized that the blind persons workshops would be serving from this point forward, require increased extensive and competent training and effective supportive services if they were to realize their individual potentialties. The type of blind person who requires the services of a sheltered workshop today poses a major challenge to workshop specialists on all levels of administration and service. Sheltered workshop programs must be carefully planned and efficiently operated. Staff must understand the special problems of blindness and be able to work cooperatively with a variety of professional specialists to bring each person served the kind of help he needs and can use.

Fifteen years ago, in 1964, only 13 percent of the total blind population receiving service in the General Council affiliated workshops had other severe handicaps in addition to blindness. Today better than 55 percent of our workshop population are multihandicapped, and that figure is growing rapidly. Within the next year, the offspring of the rubella epidemic of the early 1960's will present to us another challenge. The rubella babies from that plague will become of vocational age and will be seeking work opportunities that only sheltered workshops can provide. The vast majority of them are blind or deaf-blind and, in addition, many have sustained severe brain damage. Few of them, if any, will be capable of attaining placement in the private sector. However, with the benefit of long and patient supportive services, they will achieve their maximum potential in the workshops and thus be afforded the dignity and self-respect they are entitled to. We firmly believe that repeal of 14(c) or any modification thereof would create fiscal burdens that workshops could not absorb, and consequently the less productive blind worker who most needs the service will recede into oblivion by sliding backward off the end of a waiting list.

It has been suggested that any handicapped individual who makes the effort to go to work deserves at least the statutory minimum wage. No compassionate person can quarrel with this thesis, but no amount of compassion alone can disregard the constraints of reality. Workshops associated with the General Council of Workshops for the Blind comply with the regulations of the Fair Labor Standards Act. Compliance is assured through the payment of minimum wage or better, or through the use of certified wage rates that are approved annually by the Wages and Hours Division of the Department of Labor. Piece rates and hourly rates must be established and substantiated on the basis of the prevailing geographical wage rates for like operations in private industry within the immediate vicinity of the workshop.

A blind worker is paid wages commensurate with a least the minimum wages paid nonhandicapped workers in like industry in the same geographical area. Thus there is no inequitable differential between what the blind worker earns and the sighted worker earns for the same amount of productivity. It is our belief that the 14(c) program, based on productivity, has worked well and fairly rewards the production capabilities of the handicapped employee.

The payment of the statutory minimum wage to handicapped individuals in sheltered workshops who are unable to earn a substantial portion of this wage might rob these workers of the incentive to exert their best efforts and render best effort productivity meaningless. If a handicapped worker in a sheltered workshop, for example, finds that, with ordinary application, he can earn $1.50 an hour and that, with a reasonable degree of extra application, he can increase his earning ability by 30 percent, he would have no incentive to put forth any extra effort to increase his earning ability if he were to receive the minimum wage regardless of his productivity. In addition, the blind worker who can earn and does apply himself diligently notices others receiving the same pay for less effort and he quickly becomes frustrated and discouraged. Consequently, we inhibit his motivation toward increased upward mobility and in reality encourage less productivity.

If workshops were mandated to pay no less than the minimum wage and supplement those not capable of achieving the commensurate productivity, they would be forced to deprive limited blind persons, who benefit from it most, of the only work opportunities available to them. It simply would not be feasible for workshops to absorb the additional financial burden. Workshops associated with the General Council presently provide supplemental wages to limited blind persons who cannot meet the authorized certificated wage rates.

During fiscal year 1979, this supplement amounted to $1,044,429. Should they be required to bring all blind workers up to the current statutory minimum of $3.10 per hour, it is estimated it would cost an additional $2,900,000 or a total wage supplement of $4 million. If this were to happen, programs for the multihandicapped in many workshops would be severely curtailed and supportive services in most cases would be limited. This would be contrary to the mandates of the amended Rehabilitation Act of 1973 that clearly establishes a priority for services to the multihandicapped.

The concept of paying not less than the minimum wage to all blind workers in a workshop, regardless of productivity limitation, has been tested within the last few years and has failed. In testimony before this committee on May 10, 1978, Mr. W. Harold Bleakley, president of the Center for the Blind in Philadelphia, Pa., testified:

> There are those who will say that it is not possible to pay at least the minimum wage to blind persons working in sheltered shops. There are those who will say that if H.R. 8104 passes there will be blind multiply-handicapped men and women thrown out of work because the agencies for the blind cannot afford to subsidize their wages up to the level of the minimum wage.

Further in his testimony he said:

> Let me tell you the story of the Center for the Blind in Philadelphia. When I became President of the Center for the Blind in April of 1974, many of the employees were receiving less than minimum wage. Much of the equipment was old and worn out. There was no marketing program except for the sale of products to the U.S. Government and the Commonwealth of Pennsylvania. Today, every employee is paid at least the minimum wage. There is no maneuvering on this point. Every employee receives at least $2.65 per hour for every hour he works. How did we accomplish this? It was a combination of various steps, all of which are standard operating practice in manufacturing industry. We obtained grants to purchase new equipment. We discontinued making a number of products that the public didn't want. We developed a production and inventory control system, a purchasing system and a marketing program designed to move the merchandise for sale. We established a cost accounting system and employed a full time industrial engineer. We established a new product development department. We brought in capable management personnel. You may ask, how these steps make it possible for a blind, multiply-handicapped person to become productive. If the job to be done is a handcraft operation, then the person doing the job must have a rather high degree of skill. If his only problem is blindness, he probably will be productive since blindness in and of itself does not affect productivity. However, if in addition to blindness he is mentally retarded, he may not be productive. Now let's assume that that same individual with his additional handicap is working on an automatic machine in which his job is essentially pushing buttons. He will obviously be much more productive than in the former situation. If in addition, the industrial engineering department has developed standard work methods and an organized course of training exists, the individual can be brought to his maximum potential. Certainly, in view of the fact that $2.65 per hour is not really very much money, he can be paid at least the minimum wage. The average factory worker's earnings in competitive industry are far higher than this.

The Center for the Blind in Philadelphia, an agency in continuous operation since 1874, and the oldest private agency for the blind in the United States, filed a petition of bankruptcy on May 8, 1979. According to Mr. Bleakley's testimony, the center had secured top management, installed new modern equipment, changed its products line to mass produced items, established training programs and were able to pay everyone the minimum wage. On December 8, 1978, in a letter to unsecured creditors of the Center for the Blind it stated, "recently Center for the Blind has increased extensive losses in the operation of its workshop and the operation of its school for blind children." The 17-month statement of operations presented showed a loss for this period of $1,389,000, of which $1 million was attributed to the workshop operation. One must conclude that it is simply not feasible to pay the minimum wage without regard to the productivity of the blind workers employed.

Other ramifications that would result from the repeal of section 14(c), if applied only to the blind, concern the inequitable position blind workshops would be presented with. Workshops for the other severely handicapped would not have to supplement their client wages and consequently would derive a competitive advantage in the marketplace. Workshops for the blind depend upon the Government and commercial markets and if manufacturing costs exceed fair market prices, then we have lost our markets. Consequently, we then lose our ability to generate work opportunities for blind workers.

A number of statements have been made alleging that clients in workshops for the blind are abused or mistreated. These statements are simply not true. One need only consult the sheltered workshop study of the U.S. Labor Department, volume II, Study of Handicapped Clients in Sheltered Workshops, dated March 1979 to confirm the fantasy of such allegation. In the section headed "Client Evaluation of Effect of Workshop Experience" page A–109, table 19A, it states that of the 6,051 visually impaired clients queried as to the fairness of treatment they received in the workshop, 51.9 percent answered very fair, 43.4 percent answered fair. This certainly does not indicate abuse or mistreatment.

In closing, I would like to point out that we are not here to address you on the fact that blind persons should not earn the minimum wage. As a matter of fact, we feel that the minimum wage is not a living wage and would suggest that the blind people whom we serve in our vocational programs should have an income great enough for them to enjoy the same privileges that sighted, blue collar workers enjoy. However, we are talking about two things, earnings and income.

In our society earnings are based on, among other things, ability, skill, adaptability and total application. The earnings of blind persons generally in the General Council and National Industries for the Blind programs are to a large degree dependent on the services that can be provided to improve earning ability. We stand proudly and erect as far as our efforts in this area are concerned.

Many years ago, a number of us in the field of services for the blind asked that the Federal Government provide sheltered workshops for the blind which met the standards of the Wage and Hour Division of the U.S. Department of Labor for the operation of such workshops with subsidies sufficient to meet all or a necessary substantial part of the cost of paying the statutory minimum wage to blind workers of low productivity in sheltered workshops. This request, with some variations, has been made over the years by the operators of sheltered workshops for workers with handicaps other than blindness, but the practice it embraces has not been implemented.

Perhaps with the Federal Government's interest in income maintenance in recent years, the idea of subsidizing sheltered workshops on the basis of the difference between the actual earnings of their handicapped workers and their payment of the statutory minimum wage to these workers might now be seriously considered by the Federal Government.

In closing, I would like to thank the committee on behalf of our membership workshops for the opportunity of sharing our views with you.

Thank you very much. I would be happy to answer questions if you have them.

Mr. **Beard**. What has your record been in placing blind people outside the workshop?

Mr. **Larkin**. Last year it was 403 out of the total population of 5,035. The long-term record—would you answer that?

Mr. **Richterman**. Excuse my voice.

I would estimate that we usually run about 350 a year. Last year we were a little higher. You have to keep in mind that we deal with a minority of the handicapped population, No. 1, and No. 2, the type of person that goes into the workshop is usually going to be a long time client employee of the workshop. I would guess that as the associating workshops continue to do their job of searching out for employment limited blind people that our placement records will go down rather than up because unlike the years before and during World War II when most capable blind people could only find jobs in the workshop, it is nice to report that that situation has disappeared, that the capable blind person can be effectively placed, and we are searching out limited blind people. So I estimate that in the years ahead our placement record will get lower because of the type of person we are looking to attract with this specialized employment.

Mr. **Beard**. Well, it is an obvious point that the blind have not been placed in industry as much as some people would say, because we would not be having this hearing today and there would not be all these people in the room today if that was the case.

Mr. **Larkin**. I think you might consider that in many of our workshops the rehabilitation process is separate and apart. They are both two different segments of service.

Upon successful rehabilitation there have been priorities to place these people in the private sector. The workshops never see these referrals. What the workshops get are those people who, for very good reasons, find it very difficult to be placed in the private sector. Again, it is not a question of not enough people being placed in competitive industry. The gentleman from Maryland spoke about some 9-percent figure. When you translate that into bodies, we are talking about three or four blind people.

If we attach into the workshop those blind people who need our service because of their limitation which preclude their competing, we are not going to have large numbers of people being placed competitively. That is why they are in the workshop to begin with. Now I am not suggesting that placement will be cut off, I am suggesting that there will be longer periods of time for these people to learn about the work ethic and learn how to work and learn how to compete.

Mr. **Beard**. That is fine. Once they learn and they go through the training process, they should be getting the minimum wage if they can do a competitive job and they are not receiving it.

Mr. **Richterman**. You are absolutely right, Mr. Chairman. If they can do a competitive job they should be and they are getting minimum wage.

Mr. **Beard**. That is not the case.

Mr. **Richterman**. Mr. Beard, if they can do a competitive job, they are getting the minimum wage and better. About 54 percent of all the people employed in the workshop today are getting better than the minimum wage. The issue is not competitive placement, the issue is are they getting the minimum wage. Several of the other speakers have alluded to it that it depends on the productivity of the individual. You cannot ipso facto pass away money and add it to the cost of the product.

You alluded to, earlier today, jewelry makers in Rhode Island and whether people in the workshop who make jewelry are getting the same wage. I suggest to you that if the jewelry makers in Rhode Island do not produce *x* amount of pieces—sighted people—they are going to get fired. That is the person that we look for that cannot make *x* amount of pieces an hour. We don't fire them. Sighted industry fires them. That is the basic industry we have to understand. I am not suggesting that you don't, but I want to bring it out here so it can be discussed, if necessary.

Mr. Larkin. Section 14(c) establishes minimums, it does not place any hold on maximums. If, for example, a workshop had a workshop floor certificate of, for argument's sake, $2 per hour, any clients in that workshop producing at a piece rate that will exceed the minimum wage in effect is receiving that minimum wage. Section 14(c) does not reflect his productivity. We have some of the clients in workshops earning $4 and $5 an hour. You might ask, why aren't they placed in the private sector? For many good reasons they are not placeable. There could be social reasons. There could be limiting additional handicaps. There could be others that need the support of services of the sheltered workshop to be able to contain them at the $5.

Mr. Beard. That is fine, if they are paying above minimum wage for somebody that is doing excellent work and is very efficient in his job. I am saying that there certainly are a lot of blind people around this country who can compete with a sighted person that are not getting the minimum wage. That is wrong, it should not be.

Mr. Larkin. In addition to the job I hold as president, I am also the executive director for the Industrial Home for the Blind in New York. We had the dubious distinction of being featured in the Wall Street Journal. I myself appeared on "60 Minutes" and I am more comfortable with this audience than I was with the 3½ hours I spent with them in my office.

As a result of this we were just subjected to a very intense and comprehensive Labor Department audit. We received, after a 3-week audit, the very fine news that we were 100 percent clean, good, and performing. These people came into our workshop selecting people from our staff. Then they subjected themselves to the same timings. There was not one piece rate that they could come up with that showed that we had established wrong figures that was not fair and equitable and did not meet the standards of the Labor Department.

Mr. Beard. Well, we have had legal counsel here in our own surveys say that there has been some holding back of certain jobs and it is just not right.

Mr. Larkin. I am wondering, when the Secretary testified this morning and was indicating the percentages of their find and violation, was he talking about all handicapped workshops throughout the country or was he talking about just the blind workshop? That was not clear to me.

Mr. **Beard.** That was not clear. They really don't have enough field inspectors to cover all the shops in this country so you really don't get a true gage from the Department of Labor of exactly what is happening.

Mr. **Larkin.** We implored him to beef up that staff. That is healthy for us because we can hang our hat on that. If the Labor Department comes in and examines us and says, you are doing a good job and verifies this and documents it, we can go to a supporting public with that information, with the kind of credibility that is worth its weight in gold. We would welcome the beefing up of the Labor Department policing force of the establishment of whatever rigid standards they would want to impose that would enhance our credibility.

Mr. **Beard.** All right. Thank you very much.

Mr. Stephens?

Mr. **Stephens.** Thank you, Mr. Chairman.

Mr. **Larkin.** I was struck by your points on page 8 in your statement. I guess this is a reason that you urge not to pass this bill on behalf of the blind:

> If a handicapped worker in a sheltered workshop, for example, finds that, with ordinary application, he can earn $1.50 an hour and that, with a reasonable degree of extra application, he can increase his earning ability by 30 percent, he would have no incentive to put forth any extra effort to increase his earning ability if he were to receive the minimum wage regardless of his productivity. In addition, the blind worker who can earn and does apply himself diligently notices others receiving the same pay for less effort, he quickly becomes frustrated and discouraged.

It is a little surprising to read that and then to pick up Mr. Rockwell's statement and read there is an unimpaired worker in Arizona who has 53 percent of normal productivity, he is earning $3.78 and if he was blind he would only be earning $2 an hour. Now if that does not cause a visually impaired person to become discouraged, I don't know what would be. [Applause.]

Mr. **Beard.** Order, please.

Mr. **Larkin.** I have no way of knowing what productivity that blind person is capable of.

Mr. **Stephens.** That is not the point. The point that is being made by the proponents of the legislation is that the present system allows that to happen. Somebody is going to be frustrated and discouraged, it seems. It is a question of whose ox is going to get gored. How do you comment on that?

Mr. **Richterman.** I am not sure the present system allows it. I think the people have to implement the system. I am really not sure of the point you are making. The system today simply is one where if I want to pay someone less than the minimum wage in my workshop, as a minimum, I must submit his name to the Department of Labor with his average earnings to indicate to the Department of Labor this man's capability based on our experience with him. At the end of 1 year I must resubmit his name with his average earnings again and indicate to the Department of Labor what I want. Now if his earnings have gone up, the Department of Labor is not going to allow me to renew that certificate, they are going to raise that rate. I think if I read you first, sir, you are talking about who established that rate in the shop which caused this person to earn whatever he is earning.

Mr. Stephens. No, I think my point was that where a worker does not have any handicaps he does not have to worry about his productivity, he is going to get the minimum wage, but somebody that has a physical impairment has to worry about it.

Going on to the couple of questions I have of Mr. Larkin about his organization, the Industrial Home, what products are made by that organization?

Mr. Larkin. We manufacture mops, dust mops, wet mop handles, gunslings for the Government, all the trouser belts for the services, preoperative pre-shave kits for the VA and for DPSC, the mops and a variety of household maintenance items.

Mr. Stephens. How many visual impaired employees are employed?

Mr. Larkin. 137.

Mr. Stephens. What is the average hourly wage rate for these employees?

Mr. Larkin. $2.24 per hour.

Mr. Stephens. What is the current minimum wage?

Mr. Larkin. $3.10.

Mr. Stephens. Is there a spread of that wage, the $2.24 being the average?

Mr. Larkin. Yes.

Mr. Stephens. What is that spread?

Mr. Larkin. It would range from somewhere about $1.04 up to as high as $5 per hour. I would have to check that.

Mr. Stephens. How many people earn $5 an hour?

Mr. Larkin. Very few, three or four.

Mr. Stephens. Regular straight time?

Mr. Larkin. Piece rate basis. I think what might be interesting to note is that 86.7 percent of our total client population are severely multihandicapped.

Mr. Stephens. When you say they are severely multihandicapped, what definition of multiple handicap do you use?

Mr. Larkin. Brain damage in addition to blind, for the most part. We have the highest population of deaf-blind individuals of any workshop in our family of workshops.

Mr. Stephens. Is a deaf-blind person any less productive than a blind person?

Mr. Larkin. In many cases. Some of them can be more productive.

Mr. Stephens. I assume their wages reflect that?

Mr. Larkin. Yes; deaf-blindness is catastrophic, in my view. Many of these clients coming to us initially, not having communication skills, who have been institutionalized for many years before, they are difficult to work with at the rehabilitation base and we do then find placement for them in our workshop.

Mr. Stephens. The 137 workers that you have, you say 86.7 percent of them are severely handicapped. Does that mean they don't have the prospect of finding placement in the competitive labor market?

Mr. Larkin. For the most part, yes.

Mr. Stephens. Of the remaining number, I guess that would be around 15 percent. That would be roughly 18 or 19. How many of those each year find transition into it?

Mr. **Larkin**. Last year we placed 37 in the private sector.

Mr. **Stephens**. What sort of training do you provide to enable these people to make that transition?

Mr. **Larkin**. We had a Federal grant for about 3 years to initiate a switchboard training program for blind switchboard operators and, in cooperation with Western Electric, we developed a light sensitive probe which allowed them to function on any type switchboard that they would encounter in the Bell System.

Mr. **Stephens**. I wanted to bring out a couple more points.

With that grant, do you then supplement the wages of those employees involved in the training program for wage loss?

Mr. **Larkin**. Yes, we do.

Mr. **Stephens**. Are they, on the average, in a training program before they are placed?

Mr. **Larkin**. We supplement them as employed clients, too. When they cannot reach the certified floor, we supplement them up to that. It is relative to their own productivity. If they are under that, we have to supplement them. I think the sum last year was $126,000, but I would have to get it and present it to you and verify it.

Mr. **Stephens**. One last point. This relates to the management of the industrial home. Are there any handicapped people on your board of directors or in any management positions?

Mr. **Larkin**. Yes; we have blind people on the board and we have one other handicapped person on the board.

Mr. **Stephens**. How many people?

Mr. **Larkin**. Thirty-seven is the total board. We have two blind people and we have one other handicapped person.

Mr. **Stephens**. How about the day-to-day management activities?

Mr. **Larkin**. We have a professional staff of approximately 136 and about 37 or 38 percent of that staff are blind handicapped people, in some cases multihandicapped.

Mr. **Stephens**. All right. Thank you, Mr. Chairman.

Mr. **Beard**. Thank you very much. We will submit some additional questions.

Mr. **Larkin**. Thank you.

[The information referred to appears in the appendix.]

Mr. **Beard**. The subcommittee stands adjourned.

[Whereupon, at 1:05 p.m., the subcommittee adjourned.]

OVERSIGHT HEARINGS ON SECTION 14(C) OF THE FAIR LABOR STANDARDS ACT

THURSDAY, MAY 15, 1980

House of Representatives,
Subcommittee on Labor Standards,
Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to notice, at 11 a.m., in room 2257, Rayburn House Office Building, Hon. Edward P. Beard (chairman of the subcommittee) presiding.

Members present: Representatives Beard and Erlenborn.

Staff present: Earl F. Pasbach, staff director; James M. Stephens, associate minority counsel for labor; John F. Smollins, special counsel; Edie Baum, minority counsel for labor; and Mary Lou Granahan, research assistant.

Mr. Beard. This is the second day of hearings on section 14(c) of the Fair Labor Standards Act. Our first witness is Mr. George Mertz, executive vice president, National Industries for the Blind.

[The prepared statement of George J. Mertz follows:]

PREPARED STATEMENT OF GEORGE J. MERTZ, EXECUTIVE VICE PRESIDENT, NATIONAL INDUSTRIES FOR THE BLIND

National Industries for the Blind is appreciative of the opportunity to make this statement before the Subcommittee on Labor Standards of the Committee on Education and Labor, U. S. House of Representatives on an Oversight Hearing on Section 14 C of the Fair Labor Standards Act. We were also advised that we should have included as part of our testimony the concern about abuses, mistreatment, and working conditions in sheltered workshops as well as addressing the question -- Do workshops employing the handicapped have a competitive edge over industry because of our non-tax status and because less than the minimum wage is allowed through a Department of Labor Certification?

National Industries for the Blind (NIB) considers that the Fair Labor Standards Act has served the handicapped community well and we are in full and complete support with the continuation of special authority for minimum wage exemptions of the handicapped under Section 14 C of this Act. Section 14 C of the Fair Labor Standards Act followed and went along with the will of the Congress and the thoughts of the Congress regarding the special needs of blind persons. Section 14 C allowed vocational opportunities for limited blind persons without which they would not have an employment opportunity. In addition, Congress in its wisdom allows special consideration for blind persons, because of the devastating handicap of blindness, through double income tax exemption, through different methods of support in the Supplemental Security Income and Social Security Disability Insurance programs, and even through separate State and

Federal rehabilitation programs for blind persons, all because of the recognition of their special needs.

The repeal of Section 14 C would do a terrible injustice to those blind persons that we are presently removing from mental institutions and from other isolated situations in order to provide vocational opportunities commensurate with their abilities after training and orientation to life and work programs.

I submit that the repeal of Section 14 C would destroy the whole fabric of providing employment opportunities to a severely handicapped section of our population who without the special workshop would have no opportunity for employment.

The Rehabilitation Act of the Congress and its amendments provide for a special priority for the handicapped and the blind, and yet today we find ourselves discussing the feasibility of eliminating one of the most successful ways of providing this priority. Before further discussion, I would like to make a brief statement about NIB.

National Industries for the Blind is the central nonprofit agency appointed by The Committee for Purchase from the Blind and Other Severely Handicapped to represent the workshops for the blind that participate in the Wagner-O'Day Program (Public Law 92-28.) We are a 501(C)3 not-for-profit corporation incorporated in the State of New York on August 10, 1938.

The Wagner-O'Day Act (41 U.S.C. 46-48) was enacted June 25, 1938 to create a Committee on Purchase of Blind-Made

Products and to provide employment opportunities for the blind in the manufacture of products to be sold to the Federal Government. The amended Wagner-O'Day Act of June 23, 1971 (Public Law 92-28) added the Other Severely Handicapped, and changed the name of The Committee as has been indicated above.

In our 42 years of existence, our main goal has been, and always will be, to develop gainful industrial employment opportunities for every blind person in the United States who can and wants to work. Associated with NIB at the present time are 101 sheltered workshops and industries for the blind located in 35 States, Puerto Rico, and the District of Columbia.

In fiscal year 1979 when the minimum wage was $2.90 per hour, there were 5,035 legally blind persons in direct labor manufacturing operations that reported an average hourly wage of $3.24. Of the 101 workshops associated with NIB, there are 67 of them manufacturing items for the Federal Government under the Wagner-O'Day Program. It is important that we point out that of the 5,035 blind employed in the direct labor area, 2,797, or 55 percent, of the work force have other severe handicaps in addition to blindness. Just 10 years ago in 1969, blind persons with other severe handicaps besides blindness made up just 23 percent of the work force, or less than half of what it is today. It is this growing population of multihandicapped blind persons, who for a variety of reasons cannot function in the competitive labor market, with which we are concerned.

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The workshops for the blind that are associated with NIB comply with the law either by paying the minimum wage or more, or by using the certificated rates approved by the U. S. Department of Labor as authorized by the Congress in the Fair Labor Standards Act of 1938. It is most interesting to note that Congress in its wisdom recognized in 1938 that not all handicapped individuals were capable of making the minimum wage.

Since blind workers employed in workshops have varying degrees of vision loss along with varying degrees of ability and adaptability, several steps of employment are available to them in the workshop setting. These include the following levels of employment opportunities.

Work Activities Centers -- A program designed to serve the most severely limited blind person in which work for pay is one of a variety of necessary therapeutic tools used to develop and improve the overall capabilities of the blind person.

Special Workshop -- A program designed to afford the multihandicapped blind person an opportunity to work for pay while receiving the variety of necessary supportive services required to achieve his or her maximum vocational potential.

Industries for the Blind -- A program designed to afford the less severely limited blind person, not desiring or having reached full potential for competitive employment, an opportunity in a work-oriented environment. Supportive services are provided on an as-needed, individual basis.

Competitive Placement -- A program designed to provide employment opportunities for capable blind persons in regular industry where they work alongside their sighted peers.

In this statement we indicated one of the services of the NIB shops is competitive placement. This is no idle boast. When the 92nd Congress amended the Wagner-O'Day Act (Public Law 92-28, June 23, 1971) it is significant to note that the Committee on Government Operations in their report number 92-228, dated May 25, 1971, on the amendments to the Wagner-O'Day Act, pointed out the following.

... They recognized that the 33 years of operation of the Wagner-O'Day Act had provided substantial gainful employment for thousands of blind persons.

... They recognized that about 80 percent of the individuals participating in the Wagner-O'Day Program had been receiving public assistance of one form or another.

... They estimated that about 15,000 people had passed from the public assistance roles into the workshop and then into private competitive employment.

Since that time, NIB-associated workshops have continued to place well over 300 blind persons per year into competitive occupations. In addition, we have been able to establish successful on-going enclave and mainstreaming programs with industry. Thus, every effort is being made to provide competitive job opportunities for those blind persons able to compete in the private sector, and to maintain continuing employment opportunities in the workshop for those who just cannot function at a level which would allow them to take advantage of competitive opportunities. It is these people who would lose their one opportunity for employment if Section 14 C were to be repealed and force the payment of the minimum wage regardless of productivity. What is the alternative to boredom, unemployment, institutionalization, poor self image, and lack of independence, all of which will be forced on those blind persons who would be turned away from workshops for the blind.

Since this Oversight Hearing is being held on Section 14 C of the Fair Labor Standards Act which is the authority by Congress to pay less than the minimum wage to Learners, Apprentices, Students, and Handicapped Workers, I would like to discuss with you why NIB feels that this Act has worked so well in the past, and why this provision of the law should not be changed.

If workshops were required to pay no less than the minimum wage, they would be forced into a situation of releasing from their employment service, those blind persons who benefit from it the most, and they would be forced to keep in employment only those blind persons who are capable of earning or approaching in earning the minimum wage. Such a step would completely defeat the philosophy of the Rehabilitation Act and the work of the Wages and Hours Division of the Department of Labor. In addition, the discontinuance of employment of this limited group would force greater government payments of Supplemental Security Income (SSI) benefits and Social Security Disability Insurance (SSDI) benefits.

Employment in sheltered workshops may not satisfy the fantasies of handicapped individuals; but for a very large portion of those who are severely handicapped, it offers the best practical means of experiencing a social environment and the satisfaction of being productive and being compensated for their productivity. If certification to pay severely handicapped workers substatutory minimum wages on the basis of their limited productivity were to be eliminated, it would not result in such workers receiving higher wages. Instead, it would result in the elimination of many of them from the work force and their relegation to that soon forgotten subpopulation that is doomed to idleness, isolation, and deterioration.

As previously mentioned, the workshops associated with NIB now comply to the Fair Labor Standards Act by paying the minimum wage or more, or by using certificated rates as approved by the Department of Labor. The workshops establish rates of pay for the persons served by using wage rates that are the same as those paid nonhandicapped workers in regular industry. These rates that are commensurate with the going hourly pay in plants and industry within the workshops' own vicinity are then used to compute pay rates for the handicapped worker. Thus a blind worker is paid wages commensurate with wages paid nonhandicapped workers in like industry in the same geographical locations. No unfair or inequitable pay differential therefore exists between the blind worker and the sighted worker for like amount of productivity. We are convinced that this system of commensurate wages based on an individual's productivity has worked well since it is keyed to the actual production of the handicapped employee. To mandate that workshops should pay at least minimum wage regardless of the worker's ability, performance, or desire to apply himself diligently, would put a financial burden on workshops that could not be absorbed. In addition, such a mandate would allow the less than enthusiastic blind worker to earn the statutory minimum, regardless of his productive capabilities, which would be a poor morale factor for the blind person who can produce up to the minimum. Why should anyone work hard to be productive if he gets the same pay regardless of the amount he produces?

In effect, by imposing a mandatory minimum wage, we would be economically locking the blind workers out of their "right to work" by forcing the individuals to find an organization that will subsidize every single hour of employment, between what the individual has earned, to what he must be paid (minimum wage). The "ripple effect" would then force the workshops, consciously or unconsciously, to seek out the highest level of blind worker available for a particular job, therefore, reducing the difference between his earnings and minimum wage, thus reducing the subsidy. By this very "ripple effect," imposing the minimum wage would cause two things.

1. Reversing the primary purpose of the sheltered workshop system which is to promote employment for the blind worker with a low level of productivity who has difficulty finding employment in industry.

2. Forcing the workshop system to compete for blind workers capable of working in industry, and ignore those multihandicapped blind who could not produce up to the minimum wage.

In a Supreme Court decision of June 24, 1976, National League of Cities versus Usery, the Supreme Court held that the minimum wage and the overtime provision of the Fair Labor Standards Act cannot constitutionally be applied to those State and local government activities which provide integral parts of those government services which the States and their political subdivisions have traditionally afforded. The Court expressly found that the following activities were among those to which minimum wage and overtime do not apply: "Schools, hospitals, fire prevention, police protection, sanitation, public health, parks, and recreation." While workshops for the blind are not specifically mentioned by name in the Supreme Court's decision, it is logical that workshops operated by States would be covered by this decision. Therefore the minimum wage guarantee would not apply to those blind workers in State workshops even if Section 14 C of the Fair Labor Standards Act was changed. Out of the 101 workshops associated with NIB, 32 are State-operated workshops.

Also, this Committee must consider the workshops which serve the other severely handicapped population who also employ blind workers. Certainly imposing the minimum wage for blind workers only would have a devastating effect on the administration and operations of these other severely handicapped workshops. Recent studies by the

Department of Labor shows there are approximately 3,000 workshops for the handicapped in the United States, many of which I am sure employ blind persons. What a problem it would cause these workshops and a disincentive to employ this country's blind if Section 14 C was changed mandating the minimum wage be paid to blind workers only.

NIB-associated workshops also serve over 1,000 sighted people with severe handicaps other than blindness, and I am sure you can anticipate the effect on these people whose earnings are based on productivity, while they work alongside blind persons who would receive the minimum wage without regard to their productivity.

The workshops associated with NIB already supplement the wages of that limited blind person that cannot make even the certificated wage rate approved by the U. S. Department of Labor, so that the handicapped blind individual will have at least some minimum income above and beyond his ability to earn. In Fiscal Year 1979, this amounted to $1,044,429 in supplemental wages. In addition, $5,212,756 were paid out in fringe benefits to blind and multihandicapped blind persons served. A mandatory minimum wage law that every blind person, regardless of his ability, performance, attitude, or desire to apply himself diligently, would put a financial burden on the associated workshops that they could not absorb. In addition to the $1,044,429 supplemental wages already being paid, it is estimated it would take an additional $2,900,000, or approximately $4,000,000 in total supplement, to bring all blind workers up to the $3.10 minimum. It would be financially impossible for most shops to provide the supplement needed in the proportions estimated and yet to continue the specialized services necessary to maintain the limited blind person in the employment service. The most important factor in support of this point is that the products and services provided our government and commercial customers is the need for workshops to be competitive from an item-pricing standpoint. If manufacturing costs exceed fair market prices, then there are no markets. If there are no markets, there are no work units. If there are no work units, there is no meaningful employment for the blind workers regardless of each blind worker's individual productivity.

With respect to the question of whether workshops employing the handicapped have a competitive edge over industry because less than the minimum wage is allowed through Department of Labor certificated wage rates may be considered a moot point in view of the following.

Workshops for the blind associated with National Industries for the Blind sold $127 million in commodities and services to agencies of the Federal Government, State Governments, and to commercial markets in Fiscal Year 1979. About 56 percent of this total, or about $71 million represented sales to the Federal Government, and about 44 percent, or $56 million, to State Governments and the commercial markets. Sales to the Federal Government are regulated by The Committee for Purchase from the Blind and Other Severely Handicapped under the provisions of the Javits-Wagner-O'Day Act (Public Law 92-28.) For this market, that Committee has primary responsibilit, for determining fair market prices for commodities and services, and for assessing the impact on industry resulting from the addition of items to the mandatory Procurement List. The criteria for establishing fair market prices for the Javits-Wagner-O'Day Program does provide, in most instances, a small margin above award prices keyed to the marketplace. This is one of the important incentives provided workshops to utilize the provisions of the Javits-Wagner-O'Day Act, and has existed to one degree or another since enactment of the original Wagner-O'Day legislation in 1938. One source has described fair market pricing in support of Javits-Wagner-O'Day as a criteria which reflects that "Uncle Sam is neither a Santa Claus nor a Scrooge" when it comes to aiding workshops in their efforts to gain work for the handicapped. This attitude is certainly not unique to the workshop program. Consider the price and start-up support that is afforded to small and disadvantaged businesses through the Small Business Administration's 8a Program.

With respect to the business that workshops for the blind do in the commercial marketplace, workshops find it extremely difficult to meet the competitive pricing of sighted industry in the marketplace. The problem would be compounded for the handicapped if workshops were required to pay the minimum wage in addition to the subsidies already being paid to support less productive workers. The result would be a drastic reduction in workshop private-sector sales programs, and a resultant significant loss of work opportunities for blind persons.

We have been told that the Federal Government's Procurement Program in 1978 amounted to about $78.8 billion of which about $19.2 billion, or 24.4 percent, was spent on contracts with small business firms. As I stated before, the blind sold about $71 million to the Federal Government in Fiscal Year 1979 -- This can hardly be considered a serious impact. In addition, of the approximate sales by workshops of about $79.8 million to all customers since October 1, 1979 (some 7 months ago) an estimated 68 percent was paid to small business firms in the purchase of raw materials and components, and 32 percent represented purchases from other than small business firms. I believe this reflects that the blind have a good track record for plowing money back into the small business community to offset impact which might have been caused by adding end items to the mandatory Procurement List.

As another point of comparison, a recent publication by an association representing manufacturers of office products reported that its members had sold $34 billion worth of office products in 1977 and expected this business to grow to $125 billion in 1989. Several workshops for the blind manufacture several office products for sale to the Federal Government. In 1977 these sales amounted to about $18 million including writing instruments. This represents only one-twentieth (1/20) of 1 percent of the $34 billion in sales reported by this national association. This is hardly a significant impact on that industry especially if one considers the number of jobs provided for blind citizens of this country in the manufacture of these products. In summary, the impact of workshops for the blind on the small business community is negligible especially when one considers that workshops for the blind buy significant quantities of raw materials and components from the small business community.

Over the past year and a half, numbers of statements have been made alleging that workshops for the blind take advantage of, abuse, and/or mistreat blind and multihandicapped blind persons receiving employment services in these workshops. These statements simply are not true. These statements, at their best, have been made by persons who are misinformed and/or are purposefully misled concerning the true activities in workshops for the blind.

Workshops for the blind must operate under the same wage legislation as competitive industry. This includes such Federal legislation as the Fair Labor Standards Act, the Public Contracts Act, and the Service Contract Act in addition to a variety of other pieces of Federal legislation.

To the best of our knowledge, workshops for the blind associated with NIB generally have working conditions and facilities which are equal to or better than industry engaged in the same or similar activity. Great importance is placed on meeting basic standards and meeting the individual needs of the blind persons receiving employment services in the workshop. A review of the NIB-associated workshops in regard to Occupational Safety and Health Administration inspections shows that the NIB-associated workshops for the blind generally have received clean bills of health. Not only are workshops for the blind subject to all of the provisions of the Occupational Safety and Health Act, but workshops for the blind are also dealing with a population which has special needs. This combination dictates that workshops for the blind place an extra emphasis on meeting any safety and health regulations. NIB, in recognition of this importance, can and does provide technical assistance to our associated workshops in this area.

The repeal of Section 14 C of the Fair Labor Standards Act would forever place in vocational oblivion the thousands of blind persons with additional handicaps of the present and future who would no longer have an opportunity for employment because they could not approach the minimum wage which would be required to be paid to blind persons employed in workshops. Thus, such persons would not only never have a vocational opportunity, but would also represent increased costs to the government to fully support such persons throughout their lives. This is the real cost if Section 14 C of the Fair Labor Standards Act is repealed.

NIB wishes to commend the Department of Labor and the staff of the Wages and Hours Division in carrying out the provisions of Section 14 C. The issue covering the adequacy of wages for blind workers in workshops cannot be answered by arbitrarily requiring payment of the minimum wage. The basic purpose of workshops is not to employ the most efficient producers as in the case of industry, but to provide a real work setting for evaluation and training and to provide a place of employment, no matter what their productive capabilities, for those handicapped persons who cannot find or retain work in the competitive marketplace.

NIB would like to recommend that the Department of Labor consider the reestablishment of the Department of Labor Advisory Committee on Sheltered Workshops. This Committee that had functioned successfully since 1939 was terminated in August 1977. It is our opinion that this Committee could continue to serve an important function in assisting the Department of Labor in their administration of the regulations covering wage payments and working conditions in sheltered workshops. Because of the specialized nature of the workshops' rehabilitation and vocational program, it is important that the Department of Labor have a continuing input from knowledgeable persons representing the handicapped community.

NIB is most interested in assisting the Department of Labor in carrying out the regulations of the Fair Labor Standards Act. Perhaps the Department of Labor, along with the Industrial Engineering staff of NIB, could develop programs to better prepare selected workshop personnel in order that they may perform more effective time studies. In order to guarantee some level of job opportunity, we would recommend that no organization serving the handicapped or the blind shall be granted an evaluation or training certificate unless they have immediately available a sheltered workshop or a work activities center for severely limited handicapped persons.

I would like to repeat that NIB is not opposed to the minimum wage. We are opposed to any legislation because of the unemployment it would cause the multihandicapped blind, and for the harm it would do to a program that has worked so well for 42 years -- the Wagner-O'Day Act originally passed by Congress and signed into law by President Franklin D. Roosevelt, June 25, 1938.

I hope that I have covered in sufficient detail the reasons for our opposition. I am adding as appendices to this statement, some additional facts that I think you will find most interesting, and which I believe further support the NIB position.

Appendix 1 -- "National Industries for the Blind -- Fact Sheet -- Fiscal Year 1979"

Appendix 2 -- "Statement of the Secretary from the Sheltered Workshop Study -- Volume II -- Study of Handicapped Clients in Sheltered Workshops and Recommendations of the Secretary" (United States Department of Labor, Employment Standards Administration, Employment and Training Administration, March 1979)

NATIONAL INDUSTRIES FOR THE BLIND

FACT SHEET

Fiscal Year 1979

As of the Fiscal Year ending September 30, 1979, the following reflects NIB-associated workshop data:

1. **National Industries for the Blind (NIB) is comprised of 100 associated workshops as of September 30, 1979.**
2. **NIB-associated workshops served approximately 91 percent of all legally blind clients/employees in "regular" workshop programs for the blind (Department of Labor, Sheltered Workshop Study, June 1977.)**
3. **NIB-associated workshpps reported 68 workshops in the private sector and 32 workshops in the public (State system) sector.**
4. **NIB is represented in 35 States in addition to Puerto Rico and the District of Columbia.**
5. **NIB-associated workshops provided employment services to 5,035 legally blind persons in direct labor manufacturing operations, of whom 2,797 had handicaps in addition to blindness.**
6. **NIB-associated agencies and workshops provided services to approximately 45,000 legally blind persons during Fiscal Year 1979.**
7. **NIB-associated workshops reported 17 Work Activities Centers in addition to their workshop operations.**
8. **NIB-associated workshops reported 466 persons received services in Work Activities Centers, of whom 400 had handicaps in addition to blindness.**
9. **NIB-associated workshops reported an average hourly wage of $3.24 for the regular program and $.86 for the Work Activities Centers.**
10. **NIB-associated workshops placed 403 legally blind persons in competitive occupations during Fiscal Year 1979.**

11. NIB-associated workshops reported an average wage per man year of $5,504 for blind direct labor workers in both the regular programs and the Work Activities Centers.

  a. NIB-associated workshops reported an average wage per man year of $5,698 for blind direct labor workers in the regular programs only.

  b. NIB-associated workshops reported an average wage per man year of $8,015 for blind indirect labor workers.

  c. NIB-associated workshops reported an average wage per man year of $5,675 for blind direct and indirect labor workers combined.

12. NIB-associated workshops paid $17,105,186 in wages and supplement to the 5,035 blind persons served in direct labor in the workshops.

  a. NIB-associated workshops paid a total of $24,143,912 in wages, fringe benefits, and supplement to 5,350 blind persons in direct labor and indirect labor. Of the above dollar figure, fringe benefits provided for the blind workers amounted to $5,212,756.

13. NIB-associated workshops reported that the blind persons served in direct labor worked a total of 3,108 man years.

14. NIB-associated workshops provided 1,063 sighted handicapped persons with wages totaling $5,085,062.

15. NIB-associated workshops produced approximately 826 line products and provided 10 services for the Federal Government under the Javits-Wagner-O'Day Program.

16. NIB-associated workshops provided 100 items to Military Exchanges and Commissaries.

17. NIB-associated workshops reported a total of $127,267,416 in sales for all programs in Fiscal Year 1979.

18. NIB-associated workshops reported $63,606,925 in sales to the Federal Government for Fiscal Year 1979.

19. NIB-associated workshops' commercial sales were $46,237,928 for Fiscal Year 1979, of which $9,515,258 were attributed to sales under the State Use Law Programs.

20. **NIB-associated workshops reported $7,799,310 in sales to Military Exchanges and Commissaries.**

21. **NIB-associated workshops currently are involved in four "Special Projects with Industry."**

    a. **ITT, Corinth, Mississippi -- Mainstreaming.**
    b. **Crest Chemical, Tampa, Florida -- Enclave.**
    c. **Computer Peripherals, Inc., Norristown, Pennsylvania -- Enclave.**
    d. **Texas Instruments, Lubbock, Texas -- Mainstreaming.**

22. **NIB provided specialized training sessions to 211 workshop personnel in the following areas:**

    a. **Costing and Pricing, Government Product Development, Quality Assurance, Contract Administration, and MTM.**
    b. **Vocational Rehabilitation Services.**
    c. **Management Training Programs.**
    d. **Accounting and Finance.**
    e. **Production Methods.**
    f. **Public Relations/Personnel Relations.**
    g. **Board Orientation Programs.**

23. **Technical and professional services are available to NIB-associated workshops in the following areas:**

    a. **Development of Client Service Programs.**
    b. **Industrial Engineering.**
    c. **Quality Assurance.**
    d. **Accounting, Finance, and Fringe Benefits.**
    e. **Costing and Pricing Procedures.**
    f. **Public Affairs.**
    g. **Board Orientation Program.**
    h. **Subcontract Procurement and Affirmative Action Programs.**
    i. **State Use Law Consultation.**

2/26/80

Statement of the Secretary
from the
SHELTERED WORKSHOP STUDY

Volume II

Study of Handicapped Clients
in
Sheltered Workshops
and
Recommendations of the Secretary

United States Department of Labor

Employment Standards Administration

Employment and Training Administration

March 1979

Sheltered workshops offer severely handicapped individuals an opportunity to reduce their level of social and economic dependence by providing them with rehabilitation services and a chance to work within their own productive capacities.

This report presents our findings from a 1976 Study of Handicapped Clients in Sheltered Workshops and supplements our report on the 1973 Workshop Survey, which was transmitted to Congress in June 1977.

Sheltered workshops had a total average daily attendance of 145,000 physically and mentally handicapped clients in 1976 who earned more than $100 million in wages in the previous year. This earnings level is even more impressive because most of these persons were considered to be unemployable in the regular labor market. Still, earnings from workshop employment fell far short of meeting the basic financial needs of most handicapped workers. Many were dependent on their families for primary support, and nearly one-half of the workshop clients received some form of supplemental public support.

Our study showed that the level of severity of the workshops' handicapped workforce had increased substantially over the past decade to where the current population consists primarily of persons handicapped by mental illness or developmental disabilities, generally the least productive, instead of physically handicapped clients, traditionally the best producers. Probably for that reason average hourly earnings of handicapped workers in sheltered workshops increased only 7 percent since 1968 when DOL previously studied wages in sheltered workshops, far short of the 44 percent increase in the minimum hourly wage rate under the Fair Labor Standards Act (FLSA) from $1.60 in 1968 to $2.30 in 1976.

This means that sheltered workshops still face their most challenging opportunity -- developing employment for those persons whose disability cannot be compensated for by introducing or redesigning a machine. Unless the workshops meet this challenge, wages of workshop clients may fall even further behind during the next four years when further increases in the minimum wage are scheduled.

In the three years since the workshop survey, the client population growth rate has averaged about 20,000 per year and this level is expected to continue, partially because of nationwide concentrated efforts to reduce the client population in public institutions serving mentally handicapped persons. Workshops play a most important role in community services to that group.

Recommendations for improving the economic status of severely handicapped persons were included in the 1967 Sheltered

Workshop Report of Secretary of Labor Willard Wirtz, which urged consideration of wage supplements for eligible clients, increased financial support for client training, workshop equipment, and modernization of facilities and methods, and opening new markets for workshop products. The report also urged development of job placement services and a program of technical assistance for sheltered workshops.

Although there has been some degree of implementation of the recommendations through the joint efforts of the Department of Labor (DOL) and the Department of Health, Education, and Welfare (HEW), our findings on sheltered workshop operations in the 1973 Workshop Survey and the 1976 Client Study -- supported by two independent studies of the needs of severely handicapped persons conducted for HEW -- continue to point up the need for an even more effective and ambitious program, if sheltered workshops are to continue to serve the most severely disabled segment of our Nation's population.

At the same time, a nationwide movement of civil rights for the handicapped seems to be developing and should receive strong support to increase its effectiveness. Already the rights of handicapped persons have been affirmed through several landmark court decisions (e.g., right to education and treatment) and through nondiscrimination legislation contained in Section 503 and 504 of the Rehabilitation Act of 1973. The rights of handicapped individuals to participate in the planning of their own rehabilitation services also was recognized in the Rehabilitation Act and the Developmental Disabilities Act.

A series of planned actions and recommendations have been developed with the understanding that we are dealing with two groups.

The first comprises those individuals who, with assistance, have the potential to become either employed in the outside community or to earn sufficient money within the workshop setting to be self-supporting. Workshops should make every effort to assist these people to meet that potential.

The second group -- and this is far larger than the first -- consists of those individuals who may never be able to leave the protective workshop environment nor be self-supporting. The workshops should encourage every talent these individuals possess, so that, whatever the ultimate achievement can be for these individuals, it is reached. Next, the workshops, the agencies which support them, and the Federal and State governments which provide funds should realize that the measure of the workshops' success may not be the number of persons who, moved through them into the community but the number of persons who, by continued sheltered workshop employment, receive a sense of accomplishment and self-respect as well as an income commensurate with their efforts.

The planned actions and recommendations which follows are aimed at assisting both groups. Many are similar to those made by the 1977 White House Conference on Handicapped Individuals. Some require action by this department, some involve interdepartmental action, especially between Labor and Health, Education, and Welfare; others require Congressional action.

We are committed to full cooperation and will make full use of all available resources to assure the success of this undertaking on behalf of the physically and mentally handicapped members of our society.

Ray Marshall
Secretary of Labor

STATEMENT OF GEORGE J. MERTZ, EXECUTIVE VICE PRESIDENT, NATIONAL INDUSTRIES FOR THE BLIND

Mr. BEARD. Do you have a prepared statement?

Mr. MERTZ. Yes, I do.

Mr. BEARD. The prepared statement will be made a part of the record and you may summarize if you will.

Mr. MERTZ. Mr. Chairman, my name is George Mertz and I am executive vice president, National Industries for the Blind.

On my far right is Harold Richterman, director of the rehabilitation services division of the National Industries for the Blind; on my right is Mr. James McFarland, director of government marketing; and to my left is Mr. John W. Hanger who is in charge of legislative affairs.

National Industries for the Blind is appreciative of the opportunity to appear before the Subcommittee on Labor Standards and to offer testimony at this oversight hearing covering section 14(c) of the Fair Labor Standards Act. Besides addressing section 14(c) of the act, which allows through certification the payment of subminimum wages for handicapped workers, we were also advised that we should include as part of our testimony the concern about abuses and working conditions in sheltered workshops, as well as addressing the question, do workshops employing the handicapped have a competitive edge in the Government and commercial marketplace because less than the minimum wage may be allowed through the Department of Labor's certification.

Before discussing these points in detail, I would like to make a statement about NIB. National Industries for the Blind is the central nonprofit agency appointed by the Committee for Purchase from the Blind and other severely handicapped to represent the workshops for the blind that participate in the Javits-Wagner-O'Day program, Public Law 92-28. We are a 501(c)(3) not-for-profit organization incorporated on August 10, 1938, in the State of New York. In our 42 years of successful existence, our ultimate goal has been, and always will be, to develop gainful industrial employment opportunities for every blind person in the United States who can and wants to work. Associated with NIB at the present time are 101 workshops for the blind located in 35 States, Puerto Rico, and the District of Columbia. Of the 101 associated workshops, 69 are in the private sector and 32 are public or State operated facilities.

Since our inception, NIB's principal responsibility is to equitably distribute orders for products and services, required by the Federal Government under the JWOD Act, to our associated shops. Over the years we have gone far beyond this initial responsibility and now have an organization that provides many technical and professional services that are available to our associated workshops to assist them in the administration of their own programs in serving the blind.

Our product development engineers are constantly on the road helping shops establish production and manufacturing methods and helping them research new products. Our quality control testing lab in St. Louis, where we test on modern testing equipment many blind-made products to rigid government specifications, is a quality assurance lab approved by the Federal Government. We train personnel and assist shops in contract administration, costing and pricing procedures, subcontract procurement, rehabilitation services, setting up consumer sales programs, the establishment of good accounting and recordkeeping systems, fringe benefit programs, and more. We offer training courses in many of these areas, constantly striving to upgrade the workshop programs. NIB also conducts board orientation programs so new workshop board members can learn what responsibilities they have in serving on a board of a nonprofit agency serving the blind. Board involvement and understanding of the total program is most important to the success of the agency. NIB also has two warehouses, one in Florida and one in California, where we distribute $2 million worth of blind-made products to the military customer. As you can see, we provide many services to our associated workshops.

In 1979, the NIB associated workshops paid $24,144,000 in wages, fringe benefits, and supplemental wages to 5,350 blind persons. These shops also employed 1,063 sighted handicapped persons who earned $5,085,000 for a total of $29,229,000 in wages paid the blind and sighted handicapped. This amounts to 23 percent of the sales dollar paid to the handicapped in our workshops.

In 1979, our associated workshops employed 5,035 legally blind persons in direct labor manufacturing operations, of which 2,797, or 55 percent of the work force, have other handicaps in addition to blindness. Just 10 years ago, blind persons with other handicaps besides blindness made up 23 percent of the direct labor work force, or less than half of what it is today. It is this growing population of multihandicapped blind persons, who, for a variety of reasons, cannot function in the competitive labor market, with whom we are concerned.

If workshops were required to pay no less than the minimum wage, workshops would be forced into a situation of releasing from their employment service those multihandicapped blind persons who benefit from it the most, and would force workshops to keep in employment only those blind persons who are capable of earning the minimum wage. It is common knowledge that private industry requires their newly hired employees to meet established production standards during their initial probationary period or face termination before full time acceptance. It is economically sound and acceptable in private industry not to employ the low producers Forcing the statutory minimum wage on workshops who offer employment to all blind, no matter what their productive levels, will force the workshops to operate like private industry, thereby defeating the whole purpose of the rehabilitation process. Sheltered workshops, in general, emphasize rehabilitaiton, evaluation and training, work adjustments, and competitive job placement into industry for those blind persons who are capable of producing and earning at the minimum wage or better.

As previously mentioned, it has been our associated workshops experience that the clientele seeking services over the years have been increasingly more severely handicapped. If this trend continues, the need for sheltered employment in a workshop setting will be all the more important in the years ahead.

Since the enactment of the Wagner-O'Day Act in 1938, 15,000 blind people have passed from the public assistance roles into the workshop and then into private competitive employment in industry. NIB stresses to the shops that every effort be made to provide competitive job opportunities for those blind persons who are able to compete in the private sector, and to maintain supportive services and a level of employment opportunity commensurate with the productive capabilities of those persons who can benefit from such a program.

Workshops associated with NIB comply with the FLSA by paying the minimum wage or more, or by using certificated rates as approved by the Department of Labor. Workshops established rates of pay for persons served by using wage rates that are the same as those paid nonhandicapped workers in regular industry. Thus a handicapped worker is paid wages commensurate with wages paid nonhandicapped workers in like industry in the same geographical location. No unfair or inequitable pay differential, therefore, exists between the blind worker and the sighted worker for like amount of productivity. To mandate that workshops should pay at least the minimum wage, regardless of the worker's ability and performance, would put a financial burden on workshops they could not absorb. The workshops associated with NIB already supplement the wages of the limited blind person that cannot make even the Department of Labor certificated wage rate. In fiscal 1979, this amounted to over $1 million in supplemental wages. One of the most important factors in support of our position is that we must compete on a unit pricing basis on products provided to our government and commercial customers. If manufacturing costs exceed fair market prices, the workshops could not exist unless some sort of subsidy could be provided.

With respect to the question of whether workshops employing the handicapped have a competitive edge over industry, I would like to mention the following.

NIB workshops sold $127 million of products and services in fiscal 1979. Of this amount, approximately $71 million represented sales to the Federal Government under the Javits-Wagner-O'Day program and about $56 million to State governments and the commercial market. For the Government, the Committee for Purchase from the Blind and Other Severely Handicapped has primary responsibility for determining fair market prices for commodities and services, and for assessing the impact on industry resulting from additions of items being considered for placement on the mandatory procurement list. NIB staff makes a thorough study on the impact we might have on any industry before selecting an item to present to the Committee. NIB has not pursued a number of products because of the impact we would create on current contractors.

We have been told that the Federal Government procured $78.8 billion of products and services in 1978 of which about $19.2 billion, or 24 percent, was spent on contracts with small business firms. Our $71 million can hardly be considered a serious impact. It is interesting to note that of the workshop sales for the first 7 months of this current fiscal year, which approximates $80 million, an estimated 68 percent was paid by the workshops to small business firms in the purchase of raw materials and components. I believe this reflects that our workshops employing blind have a good track record for plowing money back into the small business community to offset any impact we might have created.

In respect to the business that workshops for the blind do in the commercial marketplace, workshops find it extremely difficult to meet the competitive pricing of sighted industry. The problem would be compounded all the more if workshops were required to pay the minimum wage in addition to subsidies already being paid to support less productive workers. The result would be a drastic reduction in workshop private sector sales programs. Adding the additional subsidy into the resale pricing structure would knock the workshops right out of the competitive commercial market.

A good point of comparison might be in the office product field. A recent publication by an association representing the office products industry reported the market totaled 34 billion dollars' worth of office products in 1977—$34 billion. We have several workshops who manufacture several office products for sale to the Federal Government. In 1977 our sales amounted to $18 million. This represents one-twentieth of 1 percent of this industry's market. We are hardly a significant impact on that industry.

In summary, the impact of workshops for the blind on the small business community is rather negligible, especially when one considers that our workshops purchase significant quantities of raw materials and components from the small business community.

Over the past 1½ years, numbers of statements have been made alleging that workshops for the blind take advantage of, abuse, and/or mistreat blind and multihandicapped blind persons receiving employment services in these workshops. These statements simply are not true, and at their best have been made by persons who are misinformed and/or are purposefully misled concerning the true activities in workshops for the blind.

To the best of NIB's knowledge, workshops for the blind associated with NIB, who must operate under the same Federal regulation as competitive industry, generally have working conditions and facilities which are equal to, or better than, industry engaged in the same or similar activity. Great importance is placed on meeting basic standards and meeting the individual needs of the blind persons receiving employment services in the workshop. A review of the NIB associated workshops in regard to occupational safety and health administration inspections shows that the NIB associated workshops for the blind generally have received clean bills of health. Not only are workshops for the blind subject to all of the provisions of the Occupational Safety and Health Act, but they are also dealing with a population which has special needs. This combination dictates that workshops for the blind place an extra emphasis on meeting any safety and health regulations. NIB, in recognition of this importance, also provides technical assistance to our associated workshops in this area.

The repeal of section 14(c) of the Fair Labor Standards Act would forever place in vocational oblivion the thousands of blind persons with additional handicaps, of the present and future, who would no longer have an opportunity for employment because they could not produce up to the minimum wage. Thus, such persons would not only never have a vocational opportunity, but would also represent increased costs to the Federal Government to fully support such persons throughout their lives. This is the real cost if section 14(c) of the Fair Labor Standards Act is repealed.

The issue covering the adequacy of wages for blind workers in workshops cannot be answered by arbitrarily requiring payment of the minimum wage. The basic purpose of workshops is not to employ the most efficient producers, as in the case of industry, but to provide a real work setting for evaluation and training and to provide a place of employment for those handicapped persons who cannot find or retain work in the competitive marketplace.

Also, this committee must consider the workshops which serve the other severely handicapped population who also employ blind workers. Certainly imposing the minimum wage for blind workers only would have a devastating effect on the administration and operations of these other severely handicapped workshops.

NIB associated workshops also employ over 1,000 sighted people with handicaps other than blindness, and I am sure you can anticipate the effect on these people, whose earnings are based on a certificated wage, while they work alongside blind persons who would receive the minimum wage without regard to their productive ability.

NIB would like to recommend that the Department of Labor consider the reestablishment of the Department of Labor Advisory Committee on Sheltered Workshops. This Committee that had functioned successfully since 1939 was terminated in August 1977. It is our opinion that this Committee could continue to serve an important function in assisting the Department of Labor in their administration of the regulations covering wage payments, fringe benefits, and working conditions in sheltered workshops. Because of the specialized nature of the workshop's rehabilitation and vocational program, it is important that the Department of Labor have a continuing input from knowledgeable persons representing the handicapped community.

NIB is most interested in assisting the Department of Labor in carrying out the regulations of the Fair Labor Standards Act, and if our expertise can be of service to them, we would be glad to help.

I would like to repeat that NIB is not opposed to the minimum wage. We are opposed to any legislation which may cause unemployment of the multihandicapped blind population and for the harm it would do to a program that has worked so well for 42 years.

Mr. Chairman, I hope I have covered in sufficient detail the reasons for our appearing at the oversight hearing.

Thank you.

Mr. Beard. Thank you very much for your statement.

In your opinion, what are the criteria for a workers' receiving the minimum wage?

Mr. Mertz. I would say he would have to be efficient and productive in his job.

Mr. Beard. How productive? What is the scale?

Mr. Mertz. Well, whatever the scale that has been set by the Department of Labor.

Mr. Beard. Let's take, for example, a janitorial job, sweeping the floor. All right. Now let's take someone that is working on the piecework that was demonstrated yesterday, making mops or some other kind of workshop project. Who has the greater skill, the man that is sweeping the floor or the man that is putting these gadgets together?

Mr. Mertz. Well, they both take a certain amount of skill to do either job.

Mr. BEARD. One fellow is receiving a minimum wage for sweeping the floor and the other guy is getting less than minimum wage because he is blind. Why?

Mr. MERTZ. His productivity is not up to the minimum wage standards.

Mr. BEARD. Why should the gadget maker get less than the minimum wage and why should the floor sweeper get the minimum wage or more?

Mr. MERTZ. Can I ask Mr. Richterman to answer?

Mr. RICHTERMAN. To begin with, the janitor is probably on an hourly-rated job. There are many handicapped people who work as janitors who do not receive the minimum wage because their performance on the job has been examined, as well as their hourly productivity. They may be estimated to be 100-percent efficient and receive the full minimum wage.

Mr. BEARD. There is no guarantee.

Mr. RICHTERMAN. There is no guarantee.

Mr. BEARD, Yet, their performance may be lousy or good.

Mr. RICHTERMAN. Yes. A complete sighted person must receive at least the minimum wage; that is absolutely correct. I say to you, Mr. Beard, what I said yesterday. If he sweeps the floor poorly, they fire him, and in a sheltered situation we don't fire him. These are the people we look to employ.

Mr. BEARD. I understand that, but, again, if a person is putting a mop together, making a broom, making a helmet liner, he requires a lot more skill than the person sweeping the floor, who is guaranteed the minimum wage.

Mr. RICHTERMAN. The job qualification for the sighted janitor is set by that company. If he does not meet the requirements, he will be fired. The handicapped janitor, his productivity is estimated under the rules of the Department of Labor. He may be estimated at 100-percent efficient and he would receive the minimum wage. If he is estimated, and I am just using a figure, at 50-percent efficiency, he would receive half of the minimum wage because his productivity as a janitor is only half as effective as a sighted janitor in industry. That must be reviewed every 6 months to reestablish his average productivity. It may go to 90 percent or to 100 percent.

Mr. BEARD. The strong argument for some version of this legislation is this: This sighted person doing a janitorial job, you have to know what you are doing. You can just be sweeping the floor. Nine people can sweep a floor; some people will leave it lousy, some people will do an excellent job. It depends on the attitude of the person. That sighted person who sweeps the floor is guaranteed a minimum wage as long as he is working. The blind person works on the helmet liner or whatever the product is, and probably on a scale of skill from 1 to 10, he is going to get a 5 where the sighted floor sweeper might get a 3. Yet he is not guaranteed the same wage that the sighted person is getting.

Mr. RICHTERMAN. The fellow doing whatever it is you are doing, helmet liners or whatever, that wage is established on the prevailing wage rate in the community for the same or similar type of work. That might be rated at $5 an hour.

Mr. BEARD. That is correct, but he is not guaranteed by law that he is going to get minimum wage.

Mr. **Richterman**. No, sir. He is guaranteed that his piece rate will be set on the prevailing rate. He may be making a lot more than the minimum wage on that job. You see, we cannot mix an hourly rated job where a blind person would not even be on a job like that. If you are talking about a janitor, you cannot mix these things because the Department of Labor sees these things a little differently. They have to estimate a man's proficiency on an hourly rated job; they don't have to estimate a man's proficiency on a piece-rated job. They want to know what is the commensurate wage rate, how did you do the time study, how did you establish the piece rate, is the man getting the proper piece rate? You have heard the prior evidence. There are many people in the workshops that make well over the minimum wage.

Mr. **Beard**. That is true; I am not denying that. I am saying that if a blind person is doing a skilled job, he may be getting over the minimum wage, but he is not guaranteed it. That unskilled janitor or dishwasher is guaranteed at least the minimum. That is the difference between night and day that is between that janitor and that blind person. I think if a blind person is qualified, he should be guaranteed to get what everyone else gets.

Mr. **Richterman**. I absolutely agree with you.

Mr. **Beard**. Why not do something about it? The law is very vague.

Mr. **Richterman**. The law is quite good because it commands a commensurate wage. If you are qualified, you can make all kinds of money.

Mr. **Beard**. That is not true. Most people that are severely handicapped one way or the other have a difficult time getting into private industry.

Mr. **Richterman**. That is right, because they may not be qualified.

Mr. **Beard**. But a lot of people don't want to take the chance to hire a person.

Mr. **Richterman**. Mr. Chairman, NIB has developed mainstreaming and enclave programs within industry. We recently completed a program with ITT in Mississippi where we mainstreamed blind people right into the plant. We had a program with Texas Instruments, four people into the plant. We had computer peripherals. Enclave is different. Industry says, I don't want to take these people, we are afraid to employ them. We set up a department in the industry operated by the workshop with their supervision and we show industry right on the job. When they reach a minimum employment level they are absorbed into the industry and the enclave disappears.

In another case, we brought the people in under our supervision in an enclave. They refused to be placed from the enclave into the industry, and they refused it because they were making more money working in the enclave and the benefits were better than what that industry was providing.

The point I am making, if we are talking about qualified, then we should stick to qualified. The second point that I am making, if we are talking about industry, industry is not the panacea and the God-given everything for all of the blind people. Blind people are individuals and if we start talking about the blind as a group, and this just bugs the devil out of me, when we talk about the blind, blind people are as different from one another as you and I and it is not right to say the blind should get this or get that. I don't know what your salary is, Mr.

Beard, you don't know what mine is. I don't think we are getting the same thing because we are sighted; there are certain qualifications that you have, there are certain qualifications that I have. The fact that we are both sighted does not make a bit of difference. Your feeling that everybody should get the minimum wage——

Mr. BEARD. Now the workshop concept is great, there are an awful lot of people who have multihandicaps who would never get a job of another description because of these severe handicaps. But we cannot have a catchall for people who do do a lot better. I think that is the point. The point is that if someone is qualified, he is qualified and whether he has his sight or not, he should have minimum wage protection. I think if I was a blind person I would want the right that everyone else has that I would at least be guaranteed doing a competitive job just like the sighted person. That is not the case today.

Mr. RICHTERMAN. Well, Mr. Beard, I'm afraid you and I disagree. The way you explain it is the case; the way I explain it, it is not the case. It is a problem of communication.

Mr. BEARD. There is no problem on this side. Yesterday we had a packed room with the leadership of blind people as well as the rank and file that come from various sections of this country.

Mr. RICHTERMAN. Mr. Beard, when you talk about the leadership of the blind, I think that needs a little explanation. The American Council represents that they represent the blind, the blinded veterans claim they represent blind people in the United States and I think that it is unfair to suggest that those people here yesterday represent the blind of the United States.

Mr. BEARD. We in Rhode Island recognize the gentleman here, Mr. Beck.

Mr. RICHTERMAN. How do you recognize him?

Mr. BEARD. He is blind, to start off with. Some of the so-called leaders of the blind are not blind. They can't have the same sensitivity to the problems of the blind.

Mr. RICHTERMAN. Mr. Beard, I don't accept this. I have spent 33 years in this business and I match my sensitivity in it with any person whether blind or sighted as far as the sensitivity and understanding of serving blind people. I would not accept that at all, Mr. Beard; it is a fallacy, and most sighted people think that way. Because you are blind does not mean that you understand all blind people regardless of what the Federation claims. With approximately 750,000 blind people in this country, I will not listen to the Federation talk about 50,000 blind people as their members when no one has ever seen its membership list and have them suggest they represent the blind.

Mr. BEARD. That has been the situation in the 6 years that I have been in Congress.

Mr. RICHTERMAN. That is true. Our organization is primarily interested in serving blind people in the workshops. We don't have the time or the money to keep walking the halls of Congress and our problem is that we have to keep reacting to so much of what is going on because we have a primary responsibility.

It might be worthwhile, Mr Beard, if someone would ask the Federation with the money they raise what are the services they provide? I think this would be a fair question to ask them. Perhaps the service they provide is going through the halls of Congress making friends with the Congressmen and we just have not got the time or the money to do that. But I think this is away from the question.

Mr. **Beard**. Yes.

Mr. **Richterman**. We are back again to the guarantee and what the workshops guarantee because the Department of Labor has a commensurate wage rate or piece rate that is reviewed at least once a year. There is a review of the workshop and certainly placement when it is indicated as I described.

Mr. **Beard**. You heard yesterday the Assistant Secretary of Labor state that they don't have a sufficient staff to inspect all those workshops around the country. That is just one aspect of a big problem that we have.

Mr. **Richterman**. Yes. You heard George Mertz say we would be glad to work with them in any way that we can. We can work with the Department of Labor. We are not opposed to the Department of Labor investigating, we are not opposed to the GAO coming in. We welcome them with open arms. That is the only way we are going to get rid of this damned nonsense where the workshops are always wrong and somebody else is always right.

Mr. **Beard**. No sense in getting excited. Don't get your blood pressure up.

Mr. **Richterman**. I think my cold is getting better.

Mr. **Beard**. Mr. Erlenborn?

Mr. **Erlenborn**. Thank you, Mr. Chairman. I am not certain I have any questions. I unfortunately was not here; I had to be in my office for a few minutes and I missed the testimony of the panel before us.

Let me just ask a question similar to that which I asked Secretary Elisburg yesterday. It appears to me that the philosophy of the so-called subminimum wage of the Fair Labor Standards Act and the regulations of the department implementing the statute is to have a lower than otherwise applicable minimum wage apply only in the case of a person whose handicap is so severe that he or she cannot be fully productive and that if we were to repeal this section or make it inapplicable to the blind, the net effect would be to destroy job opportunities for the handicapped people.

Now would you agree or disagree with that assessment, any one of you?

Mr. **Mertz**. I would like Mr. Richterman to answer.

Mr. **Richterman**. If we apply it across the board to the workshop, it would do several things, the most important of which is cease the input of blind people coming into the workshops because the workshop can't afford to take it. There are those blind people in the workshop whose earnings approach near the minimum wage. I think the workshop would supplement those and keep them. Those on the lower end of the scale would have to be let go because we don't have the money to supplement them.

Some people have suggested that the Federal Government should supplement wages, but I don't think that is a good idea. It destroys incentive. In those shops that we have where the board of directors has mandated the minimum wage across the board for everybody in the shop, they have exactly that problem; some people work, some people don't, because they get the minimum wage no matter what. I see this as a very severe problem.

I have seen NIB associated workshops go in the direction of establishing work activities centers on the grounds of State hospitals, of taking people out of institutions. These are very low wage earners. They are low wage earners because there are so many services that have to be provided before they can really be wage earners. I am talking about things like toilet training, it is that basic, that has to be provided.

We have developed at our demonstration workshop a series of electromechanical work samples because there is nothing on the market that we could find that would teach some of these severely limited blind people what it means when you say, go faster. If you have never seen and never experienced it, what is fast, what is slow? So we have had to develop these electromechanical work samples to teach some of these very basic things.

I am not sitting here and saying to you that the blind need this kind of service. I am talking about individual blind people, and they have to be treated as individuals. Some of the people you saw yesterday, Mr. Beard, don't need anything like this; they are quite capable, quite self-sufficient, but they are not working in a workshop either. We are talking about the people who need the service. If we have to go to the minimum wage, something has to be lopped off, no question about it, because of the money involved.

Mr. **Erlenborn.** Well, maybe we should realize that testimony we hear before our committees is not always directed at the members. I recall, just as an example, hearings that our subcommittee had on the minimum wage in Puerto Rico some years ago. Puerto Rico worked at a minimum wage that was lower than the stateside, the mainland minimum wage, for rather good economic reasons. It attracted business to Puerto Rico. In fact, it was one of the mainstays of the operation bootstrap, as it was called. We had labor leaders come before our committee and ask for an increase from the minimum wage which was then about $2 to $3, and eliminate the Puerto Rican differential.

I know at that time they were not talking to us Congressmen. They didn't expect us to do what they were telling us to do because they knew it would destroy the economy of Puerto Rico. Rather, it was, I think, directed at the union members to make them think that their leaders were really out there fighting for them. Possibly we ought to take testimony before our committee, in this and other cases, in that light as to who is the recipient of the message. Are we really to be the recipients to act upon it, or is the message directed elsewhere? Take it in that light. Maybe we could understand this drive to do away with the differential for handicapped.

Mr. **Richterman.** Well, I tell you, Mr. Erlenborn, if I may, every year when the minimum wage goes up 10 cents, 20 cents, we begin to have our headaches in the shop. Should we take anybody in any more. Should we keep what we have but not take anybody else. It is a very serious problem. I am not objecting to blind people making as much money as they can, but there is no money to give if he does not earn it.

Mr. **Beard.** You sound like a big businessman.

Mr. Richterman. My concern is with individual blind people, with rehab service. I have nothing to do with the business end.

Mr. Beard. Let me just pick up what my colleague mentioned, for example, in Puerto Rico. You know, the State of Rhode Island, beautiful State, is 50 miles long by 30 miles wide. Surprisingly, there is a lot of countryside in what we call South County. If the general assembly in Rhode Island reduced the minimum wage from where it is right now to $1 an hour, God, industry would be tripping over themselves coming into Rhode Island like they did in Puerto Rico. That whole 50 miles would be so full of new jobs, new buildings, new businesses, it would be incredible. That, however, does not make it right.

Mr. Richterman. Is that not what is happening around the country where the States give concessions to come in to build industry! Mr. Beard, perhaps the people of Rhode Island as represented by you are not particularly interested in heavy industry. You go to the South; they are giving the place away.

Mr. Beard. Southern States stole a lot of the textiles away from New England. They got people to work for next to nothing in the Southern States. Labor is not a popular word there.

Mr. Richterman. That is right, but I am sure that business is better when they go to the South with tax breaks of all kinds. I am sure that is part of it.

Mr. Beard. It has been interesting to have you here the second time around. Thank you for your testimony.

Our next witness is Mr. Jerry R. Daugherty, vice chairman of the board of directors of National Industries for the Severely Handicapped, Inc.; and executive director, Pueblo Diversified Industries for the Handicapped, Pueblo, Colo.

[The prepared statement of Jerry R. Daugherty follows:]

Prepared Statement of Jerry R. Daugherty, Vice Chairman, Board of Directors, National Industries for the Severely Handicapped, Inc., and Executive Director, Pueblo Diversified Industries for the Handicapped, Pueblo, Colo.

Mr. Chairman, I am Mr. Jerry Daugherty, Vice Chairman of the Board of Directors of National Industries for the Severely Handicapped and Executive Director, Pueblo Diversified Industries, Pueblo, Colorado. I have with me today Mr. Eivind Johansen, Executive Vice President, National Industries for the Severely Handicapped. We are pleased to appear to provide information on the activities of sheltered workshops participating in the Javits-Wagner-O'Day (JWOD) program as well as our position regarding the issue of sub-minimum wages as related to Section 14(c) of the Fair Labor Standards Act. As suggested, we will also comment on the economic impact of sheltered workshops on industry and so-called "abuses" in workshops.

BACKGROUND ON THE JWOD PROGRAM

National Industries for the Severely Handicapped, more commonly known by the acronym "NISH", is the non-profit agency that provides technical assistance to sheltered workshops employing the "other severely handicapped" (all severely handicapped other than the blind) who are interested in securing Federal contracts under the mandatory procurement provisions of Public Law 92-28, the Javits-Wagner-O'Day Act. Our primary objective is to provide jobs for people who are severely handicapped and to promote their placement into competitive industry.

At the suggestion of Congress, NISH was organized in 1974 by a coalition of agencies long-connected with serving severely handicapped individuals. They are: Goodwill Industries of America, National Association of Jewish Vocational Services, National Association of Rehabilitation Facilities, National Association for Retarded Citizens, National Easter Seal Society and United Cerebral Palsy Association. Since its inception in 1974, NISH has succeeded in: 1) creating over 2,300 new jobs for severely handicapped individuals; 2) assisting over 120 workshops in obtaining Federal contracts; and 3) securing for those workshops approximately $30 million in prime contracting.

SUB-MINIMUM WAGES AND FLSA SECTION 14(c)

To understand why it is in the best interest of a handicapped individual to ever receive less than the minimum wage, it is necessary to understand the function of sheltered workshops where that wage is paid.

Sheltered workshops are work-oriented rehabilitation facilities, which provide gainful employment on a temporary or extended basis to severely handicapped persons who cannot be readily absorbed into the competitive labor market. The work experience, vocational training, intake, vocational evaluation, work adjustment and other related services are designed to prepare client/employees for competitive work. The activity is facilitated by undertaking contracts with industry or government, or developing proprietary products, which provide income for the workshop and realistic job opportunities for the client/employees.

Sheltered workshops survive on contract work, much the same way as small businesses do; this is their vehicle for providing earnings and skill development opportunities for their client/employees. (The Greenleigh Study commissioned by HEW in 1975 supports this fact.) While advocates of a mandatory minimum wage contend that workshops are not run as businesses and have no motivation to do so, we do not agree. With grants and donated funds becoming extremely scarce, sheltered workshops must be efficient and well-managed to survive. In addition to their dependence on contract work, workshops are dependent upon rehabilitation programs; without them, their client/employees would not receive the counseling and training services that are the necessary adjuncts to productive employment, and which help them to realize their full potential.

We cannot over-emphasize the fact that standards for sheltered workshop clients require that they not only "work" in the workshop, but that they receive the services mentioned above. If the handicapped client no longer needs any or all of the services, then the client should be placed in competitive industry or employed as a non-client employee making the minimum wage or above.

Although grants and state funds can be used to help offset some rehabilitation costs in workshops, it is never enough. It does not begin to cover such things as: additional wages for extra supervisors and placement professionals; proportionately more fringe benefits necessitated by a much greater number of total paid working hours per task; special rehabilitation engineering services to design special tools and equipment; and the capital investment to buy that special equipment. This is where the so-called "profit" is invested (See Appendix A).

Before discussing the actual impact on sheltered workshops if the minimum wage were made mandatory, we want to emphasize the inherent differences between blind workers and the "other severely handicapped" in order to respond to the Subcommittee's concern for both elements of the handicapped population. Our point is that individuals who are blind and not disabled in any other way generally have a higher productive capability than do the "other severely handicapped", which includes the multiply handicapped categories. Statistics show that workshop wages for the blind generally exceed the wages for the "other severely handicapped". While some "other severely handicapped" have a "normal" productive capability, most do not. This is why Section 14(c), in our opinion, is working; it is flexible and can be applied to the whole range of productive capabilities that exist in the "other severely handicapped" population. As workshop facilities serve increasing numbers of mentally and severely physically handicapped individuals, the broad provisions of Section 14(c) become more appropriate, rather than less appropriate.

METHODOLOGY FOR PAYING WAGES ACCORDING TO PRODUCTIVITY

Client/employees are paid according to what they can produce. Usually a piece-rate system is used, whereby industrial piece-rates based on the prevailing industrial wage for like kinds of work in the respective geographical location, are applied to the output of the client/employee. An alternative method encompasses the prevailing industrial wage for like kinds of work in the respective geographical location, which is used as the base; the client undergoes a productivity evaluation which establishes him/her at a percentage of a non-handicapped worker's productivity. The client's hourly wage is then calculated by applying this percentage to the industrial wage.

GENERAL EFFECT OF MANDATING THE MINIMUM WAGE

Until the rehabilitation program for severely handicapped individuals is successfully completed, their productivity is also likely to be substantially less than that of their able-bodied counterparts. Regardless of the final level of productivity, during the training/apprenticeship period at the very least, the handicapped workers will produce less than non-handicapped individuals. The purpose of this total rehabilitation and training is to make the client/employee aware that pay is linked to productivity; this is how competitive industry operates. Thus, the provisions of Section 14(c) concerning wage certification allow workshop employers to pay handicapped persons commensurate with their ability to produce. If they could not take advantage of this provision of the Fair Labor Standards Act, sheltered workshops would be even less able to carry out contracts providing realistic work experience, such as those under the JWOD program.

The effects of requiring workshops to pay the minimum wage would be both immediate and disastrous. The dramatic cost increases that would be brought about by an inflexible wage policy would cause some workshops (just as any other business enterprise) to retain only the most productive workers. This adaptation might enable the workshop to survive, but at the expense of those individuals with the most severe handicaps. The results would be in direct opposition to the Rehabilitation Act of 1973 which requires the most severely handicapped individuals be offered top priority in receiving vocational rehabilitation services. In addition, many other workshops would be unable to survive financially, resulting in the severe curtailment of the number of sheltered workshops available to handicapped persons for training and employment. Since workshops cannot exist independently of rehabilitation service programs, the workshops would be the first to go, as at least some rehabilitation programs could operate under state funds and grants. Productive client/employees would return to institutions or vegetate in their homes as tax burdens rather than taxpayers.

EFFECT OF MANDATING THE MINIMUM WAGE ON JWOD PROGRAM

The Javits-Wagner-O'Day Act, and the procedures established by the Committee for Purchase from the Blind and Other Severely Handicapped (Statutory Committee) that administers the Act, require that participating sheltered workshops providing commodities or services to the Federal government under its provisions must do so at a fair market price. This price reflects the results of previous open competitive bidding on the items. In the process of deciding whether to petition the Statutory Committee to place an item on directed procurement, NISH requires the workshop to prepare a plan to produce the item and a detailed estimate of the associated costs. The law also requires that 75% of the workshop's total direct labor force consist of severely handicapped individuals. A critical action in the process is the comparision of the workshop's estimated cost to produce and the fair market price the government should pay for the item. In the last three years, in 84 (10%) of the contracts we analyzed in the final stages of the program, we found that the particular workshop's costs exceeded the fair market price, and it was not practical to continue development under the JWOD program. Again, this is with existing certification wage policies, and the 84 contracts is a conservative figure, since some others that might also have had this problem were not developed to the cost-estimating stage for a number of other reasons, such as anticipated impact on current industrial suppliers. Given this historical evidence, the dramatic cost increases that would be brought about by an inflexible wage policy would increase the percentage of projects rejected due to an excess of workshop costs over the fair market price. This would, in turn, severely curtail the number of sheltered workshop jobs available to severely handicapped persons.

Here again the effects would be detrimental, not beneficial, to handicapped client/employees. The increased direct labor costs would not only prohibit new items from being produced under the program, but many current items would have to be dropped from production, as workshops' costs would exceed the Fair Market Price derived by the Statutory Committee. Our estimates are that at least half of the items produced under JWOD would have to be discontinued under a minimum wage criteria.

In summary, NISH has not encountered any difficulties with the intent or implementation of the certification program under Section 14(c). This is not surprising since the requirements of the section have been successfully carried out for many years, to the benefit of handicapped citizens. Although it has recently been the contention of some groups representing handicapped persons that there is substantial abuse of the wage certification program under DOL, it is obvious that eliminating the issuance of sub-minimum wage certificates will not solve the problem those certificates were intended to alleviate. It is our firm belief that this is not an instance where the cure is worse than the disease. With more concentrated efforts toward enforcing compliance with proper wage rates, this system provides many handicapped persons with productive employment, whereas many of these persons would be unemployed without them. In short, we support the minimum wage for all client/employees, but not at the expense of the very facilities that offer them the opportunity to earn it.

But even more important than a quantitative difference in wages earned is the opportunity to work. Few of us would deny the therapeutic aspect of a day's work. To the handicapped individual, work means much more than therapy or wages. It means that there is a place to go where people are friendly, understanding and accepting. A place where the person has the chance to make a real contribution, to be appreciated as a valuable member of a team effort, and to participate in a meaningful and stimulating environment. This is what our program, and sheltered workshops in general, offer to handicapped persons. Federally controlled sub-minimum wages help make these achievement a reality.

RECOMMENDATIONS

We recommend:

1. That Section 14(c) of the Fair Labor Standards Act be left intact, but that the Department of Labor be charged with heightening its attention to the enforcement of Section 14(c) by (a) increasing field compliance activities; (b) increasing activities designed to better educate workshop administrators and DOL compliance officers in the intricacies of the wage and hour laws and regulations.

2. That the current regulations implementing Section 14(c) be revised to allow more flexibility in determining the structure and activities of work activity centers. Current

regulations are unduly restrictive and go beyond the scope of Section 14(c) per se by:

a. Establishing "tests" for average productivity in work activity centers, which are then used to establish artificial wage and productivity ceilings; the mandate of Section 14(c) to pay clients "commensurate wages" does not keep these ceilings from interfering with the development of efficient programs that afford the maximum benefit to the work activity center client and the workshop as a whole.

b. Requiring physical and programmatic separation of the work activity center from the regular workshop. If a workshop can successfully integrate work activity center clients into regular workshop production activities (which sometimes can be extremely beneficial to both), we see no reason why they should not be permitted to do so.

3. That the Department of Labor Advisory Committee on Sheltered Workshops be re-established by appropriately amending the Fair Labor Standards Act. The function of the Advisory Committee would be as follows:

a. To advise the Secretary of Labor on policies, decision-making, program planning and procedures relative to Section 14(c) of the Act;

b. To develop and disseminate information to the public, relating to the Act, and special provisions for the handicapped;

c. To act as a forum for discussion of public policy issues related to the entry and labor market participation of handicapped individuals and the utilization of subminimum wage provisions to encourage such participation.

Because of the highly specialized nature of sheltered employment and the problems that arise in setting and administering equitable wage payments, we feel that the Committee's advice would be invaluable. No other committee or agency, nor the Labor Department's staff, is able to provide this needed "grass roots" expertise.

4. That pending legislation to revise the current SSI and SSDI program be enacted expeditiously, to remove the current economic disincentives which discourage client/employees from increasing their productivity and earning higher wages.

5. That the Department of Labor undertake to advise sheltered workshops of current industrial wage standards via a publication or periodical. Workshops are having problems obtaining this information, and since the Department of Labor uses this information in-house, it would require little effort or expense to publish it. In addition, DOL needs to provide guidance to workshops on how to adjust industrial standards when clients cannot fulfill all elements of the corresponding job description. This could also be a function of the Advisory Committee referenced earlier.

ECONOMIC IMPACT OF SHELTERED WORKSHOPS ON INDUSTRY

The issue of economic impact is actually composed of three elements:

1. The impact of sheltered workshops on small businesses as a result of bidding on small business set-aside contracts;

2. The impact of JWOD sheltered workshops on industry in general as a result of contracting under the JWOD program;

3. The impact of sheltered workshops competing in the open market for both commercial contracts and unrestricted government contracts.

A discussion of each element follows:

(1) Impact of Sheltered Workshops on Small Business as a Result of Bidding on Small Business Set-asides

It has long been the contention of small business advocates that sheltered workshops present unfair competition to the small businessmen of this country. Some of their objections and the counterviews of those in the sheltered workshop community are as follows:

a) OBJECTION: Workshops do not have to pay corporate taxes and therefore have an economic advantage.

FACT: Workshops incur many "hidden rehabilitation costs" as a result of using handicapped individuals as direct labor; the independent Greenleigh Study, commissioned by HEW, supports this premise, stating that for the overwhelming majority of sheltered workshops, business income is not sufficient to meet costs, even when costs include subminimum wage payments. These extra costs include extra supervision, extra training and special machinery and equipment.

b) OBJECTION: Workshops can cut their labor costs by paying workers less than the minimum wage.

FACT: Sheltered workshop employees are paid according to their level of productivity; therefore, if a client is at the 50% productivity level, he/she will make half the industrial standard wage for that job, and take twice as many hours to produce the same amount of work as someone at "normal" productivity. The workshop pays the same amount of dollars per unit of output as industry; in fact, workshops sometimes end up paying more because clients are not always able to complete each of the tasks on an industrial job description (i.e., most workers in industry are required to maintain work records and assume responsibility for quality control to some extent in the operations in which they are participating; this is sometimes impossible for severely handicapped individuals). This, coupled with a) above, results in workshops that are often not able to be competitive with private industry, as evidenced by the fact that workshops bidding on small business set-asides during the trial year of eligibility won less than half of those contracts on which they bid.

c) OBJECTION: Sheltered workshops will take a large share of the contracts normally allotted for "regular" small businesses.

FACT: Recommendation No. 5, House Report No. 93-1315, August 22, 1974, stated: The statutory Committee, the National Industries for the Blind, and the National Industries for the Severely Handicapped should explore with the Small Business Administration the effect of allowing certified nonprofit workshops for the handicapped to bid on small business set-aside "contracts". A test program to allow workshops to bid on small business set-asides was initiated in FY 1978. Results are as follows:

Set-aside bids by workshops--Lost = $2.9 million

Set-aside bids by workshops--Won = 1.1 million

Total bid $4.0 million

Total small business setaside dollars $5.1 billion

Summary: Workshops represented .00022 of total setaside dollars ($1.1 million of $5.1 billion). If you compare the workshop sales against the total awards to small business ($19 billion), the impact is even smaller.

d) OBJECTION: If workshops are only going to receive this much business from set-aside eligibility, why do they need it? And besides, they already have the JWOD program.

FACT: The typical sheltered workshop is a very small business, and the total workshop community is able to employ only a fraction of the nation's severely handicapped population, which are otherwise unemployable. For an average size sheltered workshop, the mean of $60,000 for set-aside contracts won in FY 1978 would add 25% to their industrial dollar volume. It is significant work for those workshops.

After six years, Federal JWOD contracts for workshops serving the other severely handicapped have grown to only $30 million. They constitute, on the average, about 20-25% of the industrial income of workshops with such contracts. They are heavily regulated contracts, and difficult and time-consuming to acquire and maintain. Bidding on small business set-asides is a faster, less complicated method of obtaining government contracts.

Ninety-five percent of the businesses in the United tates are considered "small" by SBA standards.*/ Should workhops for the *severely* handicapped be forced to compete against he remaining 5% of "big business", while small businesses mploying *able-bodied* workers are protected?

SBA has recently revised its method of determining hich firms are "small"; in most cases, the new rules are elieved to permit small businesses to be even bigger than efore. More and more businesses are being afforded protection y the Federal government against monopolistic or at least oligopolistic firms; why are the handicapped excluded from such protection?

More and more commodities/services are being placed on small business set-asides thereby taking a larger available share of the market, i.e., due to pressures to increase small business purchases from within Federal agencies and from outside sources. To foster these pressures and expand their programs, small business has a large "implementing arm" which administers the program throughout the Federal bureaucracy. The severely handicapped have only the Statutory Committee and two small non-profit organizations--none of which are lobbying agencies.

Federal agencies have specific goals established for small business; however, no numerical goals are established for increasing procurement from the severely handicapped. Commendations are received by Federal agencies when awards to small business are increased. In our experience we have never seen a commendation for increasing awards to the severely handicapped.

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*/ The Washington Post, March 11, 1980, p. C1.

(2) Impact of JWOD Sheltered Workshops on Industry in General.

In enacting the JWOD Act, Congress acknowledged and accepted the fact that every workshop contract ultimately results in a loss of business on the part of the competitive private business firm that would otherwise have been selected. Congress also recognized that there is a need for the massive purchasing power of the Federal government to help promote a desirable social goal.*/ Accordingly, they charged the presidentially appointed Committee for Purchase from the Blind and Other Severely Handicapped to consider the serious adverse impact on industry of each commodity or service added to the Procurement List. The Statutory Committee, therefore, does not permit a workshop to become the supplier for the government where there is serious adverse impact on the current or most recent contractor. The Statutory Committee reports annually to Congress and is held accountable for its acts. On the other hand, there is no similar Committee or agency to evaluate the adverse impact on the workshop of government awards made to small business or to industry. In addition, the small yearly business that workshops produce for the government is spread out over a wide variety of items; therefore, no single industry is substantially influenced by sheltered workshop activities.

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*/ H. Rep. No. 93-1315, August 1974, pp 7 and 15.

(3) Impact of Sheltered Workshops Competing in the Open Commercial Market.

Finally, there is the impact of sheltered workshops as a result of competing in the open market for commercial contracts and unrestricted government contracts. The analysis of this situation rests with a premise which NISH has continually emphasized in these as well as other hearings: if anything, workshops tend to be at a competitive disadvantage, rather than at an advantage. They therefore will never be able to significantly impact the U.S. economy as a whole. To illustrate this point, the total dollar volume of government procurement in 1978 was $78.8 billion. The total workshop portion of that dollar volume was .00027.

RECOMMENDATIONS

1. Congress has twice shown its intent to allow sheltered workshops to be eligible for the SBA set-aside program. P.L. 95-89 made workshops eligible for FY 78 and H.R. 11445 extended this eligibility for two more years. Unfortunately, H.R. 11445 was vetoed by the President for reasons not related to this issue. Currently, S. 918 includes authority for workshops to bid on SBA set-asides, but it appears that, again, this bill will not be enacted due to considerations unrelated to the handicapped provisions. NISH recommends that Congress pursue its demonstrated intent by authorizing this eligibility statutorily--by a separate bill if necessary. This will bring an end to the current situation which protects small business from big business, but which does not afford this protection to sheltered workshops, who actually need it more.

2. We urge the Congress, as well as other concerned agencies and parties, to support the concept of using the federal procurement system to provide work opportunities and better wages for handicapped individuals. Our statistics indicate that workshops producing under the JWOD program are able to pay a substantially higher wage to their client/employees, because government work is of a "prime" contracting nature; that is, it requires a higher level of skill than the subcontracting work which is more prevalent at the workshop level. This higher skill requirement is necessitated by the more complex nature of the manufacturing or service being produced, and thus ultimately results in a higher wage for the client/employee.

3. We recommend that Federal agency regulations be amended to require procurement officials to use contract dollars awarded to sheltered workshops to meet pre-determined goals; this is an established procedure for small business awards, and if extended to sheltered workshops, would enable all concerned to gather statistical evidence as to the total dollar volume of workshop business with the Federal government.

ALLEGATIONS OF "ABUSE" IN SHELTERED WORKSHOPS

Recent media allegations charge sheltered workshops with being unsafe, unhealthy, unfair--"sweatshops" is a term used in one newspaper article which was very clean in its denotative impact. Most associations representing the sheltered workshop community have concluded that the potentially-positive effect that these "exposes" could have had in upgrading those spects of programs that needed it, was instead buried beneath nwarranted and misrepresentative statements that were either allacious or isolated cases. We have submitted for the written ecord (Appendix B) an analysis of statements made by the Wall Street Journal, showing how specific facts and figures were distorted nd taken out of context, whether intentionally or unintentionally, to give the impression that handicapped individuals are being exploited and abused all across the country. They are not!

RECOMMENDATIONS

The sheltered workshop community has suffered irreparable loss of confidence and credibility with the general public, which has been a source of support both financially and otherwise for many years. We offer no remedial action to Congress, but urge all concerned individuals and perhaps the Congress as a whole, to be more aware of investigative reporting practices which are designed as much to create a saleable story as to enlighten the public.

CONCLUSION

In conclusion, we would like to express our appreciation for the opportunity to present the views of NISH on these important issues, and to commend the Subcommittee for the concerns which generated this hearing. We firmly believe that, on the whole, our nation's severely handicapped citizens are being well-served by the various state and federal programs, and that with the continued concern and help of Congress and administrative agencies, we will be able to refine those programs to achieve the maximum benefit to the handicapped citizens of our country.

Appendix A

Hypothetical Analysis of Small Business v. Sheltered Workshop Finances

Statement of Expenses

ABC Manufacturing, Inc., 19__

- * Materials
- * Direct Labor: Ex: 6 people at $4.00/hr for 1 yr = 12,480 hrs = $49,920 in wages paid. Produce 62,000 widgets/yr.
- * Overhead:
  - Supervisors
  - Rent
  - Utilities
  - Equip. Deprec.
  - Selling Expense
  - Supplies
  - Finance Charges
  - Fringe Benefits

Statement of Expenses

XYZ Sheltered Workshop, 19__

- * Materials
- * Direct Labor: Ex: 30 clients at 20% prod) at .80/hr for 1 yr = 62,400 hrs = $49,920 in wages paid. Produce 62,000 widgets/yr.
- * Overhead:
  - Supervisors*
  - Rent
  - Utilities
  - Equip. Deprec.
  - Selling Expense
  - Supplies
  - Finance Charges
  - Fringe Benefits*
  - Occupational therapist or Rehab Counselors
  - Training & Eval. Svcs
  - Medical Consultations
  - Client Transportation
  - Rehabilitation Engineering Services
  - Special Equipment Expense
  - Direct Wage Subsidies

* Significantly greater than business concern due to workshops' characteristics.

ANALYSIS OF WALL STREET JOURNAL ARTICLE ON SHELTERED WORKSHOPS, DATED OCTOBER 17, 1979

The article as a whole used isolated instances and partial facts to attempt to paint a total picture of today's workshop community. Only two of the over 600 workshops certified to participate in the Javits-Wagner-O'Day program of directed government procurement were mentioned in the article. Of these two, one workshop (Monmouth) is inactive while the other (Atlanta) is currently performing a service type contract.

The critical implications of this article, however, do have certain positive aspects. Such criticism will insure that NISH, as a part of the total rehabilitation community, will continually examine itself and strive for creation of a better atmosphere. We must realize the need to constantly police our community, disassociating ourselves from those who would try to take advantage of the severely handicapped individuals we represent.

The few positive comments in the article included:

(1) "Many operators obviously are committed to helping the handicapped and are doing their best with limited resources".

(2) "Many people in the workshop industry agree that wage violations are widespread, though few concede that the violations are deliberate".

(3) "Many of the profits accumulated by workshops around the country clearly are spent in good faith on projects designed to help other handicapped persons...."

The most obvious misrepresentations and omissions in the article are summarized at Enclosure 1 to Appendix B.

Enclosure 1

Obvious Misrepresentations and Omissions

The WSJ Reported:	The WSJ Did Not Report:
"Some workshops pay handicapped as little as 10 cents an hour."	Wages of clients in work activity centers were lumped with wages of clients in the workshops to distort their findings.
"...[T]he association returns to running a serious business, with a net worth of $1.3 million, including $579,000 cash on hand."	What are the organization's financial liabilities? A Balance Sheet is comprised of three items--assets, liabilities and net worth. The fiscal strength of an organization cannot be implied without taking all three elements into consideration.
"...[I]t (the Work Opportunity Center) was still receiving the more than $500,000 a year...from the U.S. Dept. of HEW, part of the growing taxpayer contribution of $200 million a year to workshops across the country." Also, "...3,500 shops have been certified to pay disabled workers according to productivity only."	An analysis of these figures shows the average HEW grant to workshops across the country is $57,000. Thus, the Work Opportunity Center, in terms of federal financial support, is not the average or typical institution.
"The $57,043 expense budget for the Winter Glow Ball, which brought the association a net of $108,921...."	An analysis of this data reveals the Ball netted income approximately 200% over expenses. This is a return on investment which any prudent businessman would gladly accept.
"The association, which is raising money for a new rehabilitation center, also pays as much as $10,000 a year to reimburse expenses of its chairwoman...."	While the Journal is very specific regarding the dollars spent on the travel reimbursement expenses of the chairwoman, the money being applied to the construction of the new rehabilitation center is not as well defined. In fact, by careful sentence structuring, the Journal implies the 200% Ball profit is primarily utilized to finance administrative expenses rather than the new construction.

The WSJ Reported:	The WSJ Did Not Report:
"Some 200,000 handicapped Americans, five times the number a decade ago, are currently at work at 3,500 farms, factories and shops that have been certified to pay disabled workers according to productivity only."	An analysis of this data reveals the average number of handicapped employees per workshop is 57. Thus, again, the Work Opportunity Center, in terms of number of clients (150) is not the average or typical institution.
"Labor Dept. officials say...the department has manpower enough to inspect only 3% to 5% of the sites (workshops) each year." "...[T]he 80,000 inspections his office (Elisburg) can make each year (...it regulates five million businesses)...."	An analysis of this data reveals the average inspection rate of all businesses is only 2%. The inspection rate for workshops is already double that of all industry.
"....[A]n epileptic assembles cardboard boxes and gets about $2.19 an hour." "Alongside him, non-handicapped workers under CETA...get $2.90 an hour."	The comparison of wages paid under CETA with those paid under a sheltered workshop program is not valid as they are two distinct programs with different purposes and objectives. A rebuttal by Goodwill Industries of Atlanta to the WSJ allegation is attached.
"The Kentucky Council for Retarded Citizens, Inc....also sells the services of handicapped workers to various contractors, charging far more than it pays the laborers. For example, Jefferson County (which includes Louisville) pays the council $30,000 a year for a mentally handicapped janitorial crew. The council pays the crew a total of $12,000 a year in wages. It pays the supervisor, Charles Hammond, $7,000 a year. It keeps the rest."	The $11,000 difference between the wages paid and what the contract amount must cover is not explained. Rather than outline the overhead type items (such as transportation, materials and supplies, fringe benefits) for which the $11,000 is spent, the Journal implies the difference it "kept" by the workshop. Actually the 58% overhead figure is relatively low for a janitorial type service contract.
"Many handicapped workers, meantime, have to put up with filthy and hazardous work sites."	All the national organizations involved with workshops employing the severely handicapped support the various OSHA requirements and stress workshop conformance. NISH supports any proposal to better the working conditions of the severely handicapped.

The WSJ Reported:	The WSJ Did Not Report:
"Competitive suppliers in private industry--some employing the handicapped at the minimum wage or better...."	The Journal's article makes no distinction between handicapped and severely handicapped individuals. It is somewhat common for private industry to employ handicapped workers; however, the employment rate of severely handicapped individuals in private industry is extremely low. Thus, to compare the earning power of a handicapped worker in the private sector to a severely handicapped individual in a sheltered workshop is inappriate.
"There are two noteworthy ways that workshops keep the pay low, using the Labor Department's own formulas. One is to set normal productivity impossibly high....The other way is to estimate the commensurate wage in private industry unrealistically low."	Throughout NISH's history, development of piece rates has been a priority. The DOL's Advisory Committee on Sheltered Workshops was created to advise the Administrator of the Wage and Hour Division on the administration of the wage and hour laws as they pertain to the employment of handicapped workers at wages below the legal minimum in sheltered workshops and residential facilities and to encourage compliance with these laws. As a consultant to this committee, NISH emphasized the need for establishing better standards to allow for more accurate piece rate calculations. Unfortunately, this committee was dissolved in 1977 due to the termination of federal funding.
"Stirred by complaints from officers in the field, the Labor Department last year sent a senior official, Victor Trunzo, on a six-city inspection trip. It won't release his findings. But this June it did finally send Congress a 351-page report prepared in 1977 based on interviews in 1976 at 700 workshops. Among	Why did the Labor Dept. refuse to release Mr. Trunzo's findings? Was Mr. Trunzo medically qualified to determine whether or not a worker's disability interferred with job performance either "at all" or "slightly"?

The WSJ Reported:	The WSJ Did Not Report:
the findings: About 12% of the workers had disabilities that didn't interfere at all with their work performance, yet they averaged only $1.37 an hour--40% less than the minimum wage at the time. Another 21% were hampered only 'slightly' and yet they averaged only 96 cents an hour."	
"Average employee earnings in the workshops increased only an indicated 6.5% from 1968 to 1976, despite inflation and a 44% increase in the minimum wage."	What was the increase in the average hourly wage compared to the 44% increase in the minimum wage? An increase in average earnings cannot be compared with an increase in the minimum wage without taking into effect the change in average number of hours worked between the time periods being examined.
"...[T]he Department of Health, Education and Welfare insists that the workshop employees be treated just like any other employees for aid purposes. Therefore, they may lose the supplemental Social Security income that many handicapped persons are entitled to."	This is an issue of concern to all national organizations representing the severely handicapped, not just the WSJ.
"...[T]he United Way of Clallam County, Wash., recently knocked the local workshop, Diversified Industries Rehabilitation Services, off its gift list. It said the officially nonprofit organization was making a substantial profit."	The criteria for classification as a non-profit organization is not whether or not a profit (i.e., income generated is greater than expenses incurred) is made in producing a product or providing a service. Being a non-profit organization only means that no part of the net earnings of the corporation shall inure to the benefit of, or be distributed to, its Directors, officers, stockholders, or other private persons.

RECEIVED OCT 29 1970

GOODWILL INDUSTRIES of Atlanta, Inc.
2201 GLENWOOD AVENUE, S.E./ATLANTA, GEORGIA 30316 / (404) 377-0441

JOSEPH W. HATCH, President

October 23, 1970

Mr. Charles W. Fletcher
Executive Director
Committee for Purchase from the Blind
  and Other Severely Handicapped
2009 14th Street, North - Suite 610
Arlington, Virginia 22201

Dear Mr. Fletcher:

The purpose of this letter is to dispel any concerns you and your committee may have concerning the reference to our agency in the recent Wall Street Journal article of October 17, 1970. It was very disturbing that the authors did not check their information fully with our management and, of course, that our agency would be included in such a generally unfavorable article, wherein the accusations dealing with the other mentioned workshops were rather severe in nature.

Let me give you a brief background regarding this article as follows: About six weeks ago I was contacted by telephone by Mr. Jonathan Kwitny of the Wall Street Journal. He stated that he had been approached by one of our workers complaining that our piece rate concerning our box folding shrink package contract was unfair, in that it was based on only 3/4¢ per box, thus not giving our handicapped clients a reasonable opportunity to achieve minimum wage or better. I advised Mr. Kwitny that the worker's information was in error, that in fact the minimum piece rate was 1 3/4¢ per box, which easily equated to minimum wage unit or a normal day's output. I pointed out that the piecework price was properly established, and that it was additionally verified by an independent industrial engineer and that some clients under this contract exceeded minimum wage. Mr. Kwitny stated he was more than satisfied with the correct information and that no further discussion was needed regarding the piece rate. I invited Mr. Kwitny to visit our facility for an in-depth study of this work area. He thanked me for the invitation and the information.

Our assumption is that this report was made by an emotionally handicapped Veteran CETA worker (assigned to us by CETA because no other agency would accept him) who had had a history of creating just such situations. We believe that this is the same worker that requested an OSHA inspection of our facility. In this connection, we received a favorable report on the OSHA inspection without penalties.

We had no further contact from the Wall Street Journal; therefore, the inclusion of our agency in the article came as an unpleasant surprise. We feel that verification of information and programs involved would have resolved the matter. As to the statements in the article, part of the particulars mentioned are accurate; whereas, others are not documented and make illogical comparisons of two unrelated programs. The handicapped worker earning $2.10 an hour was working on a contract whose piece rate was not only properly established by our workshop in accordance with our Department of Labor's Certificate, but was verified additionally by an independent industrial Engineer using MTM methodology (Motion Time Measurement).

Secondly, CETA workers assigned to us by the City of Atlanta have their pay level set and paid directly by the city's payroll office (we turn in hours, sick leave, etc.). It may interest you to know that a majority of our CETA workers are handicapped (35 of 57) including some in the subject contract. There is a very good chance that the "able bodied, non-handicapped CETA worker" referred to in the article is, in fact, an emotionally handicapped individual.

The CETA employees in that contract are in training and are not assigned for production output purposes, hence no count of their boxes are maintained. The "300 boxes" referred to in the article may very well be pure conjecture. CETA workers (including the handicapped ones) are assigned to this contract and other areas for training and job exposure in their year or less with our agency. As long as they show a reasonable effort, we would not immediately terminate them due to low output; similarily, we would not terminate a handicapped sheltered worker for low output. Currently, the slowest worker in that contract is a handicapped CETA male attempting to overcome severe physical disabilities.

iously, if a CETA or other worker assigned to a given area tinually failed to meet average output standards after training, we ld look for other areas of work in hopes that eventually a skill could be developed that would prepare the worker for competitive ubsidized employment. Typically, CETA workers tend to exceed the put standards for a given work; however, they do not receive extra from CETA, whereas handicapped workers at our facility that exceed imum wage standards do receive the appropriate additional pay.

summary, it seems to us that comparison of the wages paid under a A program and those paid under a sheltered workshop is not fair or id as they are two distinctive programs with different purposes objectives. In addition, we feel that had Mr. Kwitny discussed s consideration with us, we would have been able to convince him the falaciousness of such comparisons.

ope this letter will answer your concerns raised by the subject icle. We welcome any further questions from you or your committee.

Sincerely,

Joseph W. Hatch
President

l:ep
NISH National Office
NISH Southeast Regional Office

STATEMENT OF JERRY R. DAUGHERTY, VICE CHAIRMAN, BOARD OF DIRECTORS, NATIONAL INDUSTRIES FOR THE SEVERELY HANDICAPPED, INC. AND EXECUTIVE DIRECTOR, PUEBLO DIVERSIFIED INDUSTRIES FOR THE HANDICAPPED, PUEBLO, COLO., ACCOMPANIED BY EIVIND H. JOHANSEN, EXECUTIVE VICE PRESIDENT, NATIONAL INDUSTRIES FOR THE SEVERELY HANDICAPPED

Mr. Beard. Do you have a prepared statement, Mr. Daugherty?

Mr. Daugherty. Yes, Mr. Chairman. I have a summary of 13 pages.

Mr. Beard. I would appreciate it if you would summarize it.

Mr. Daugherty. Mr. Chairman, I am Jerry Daugherty, vice chairman of the board of directors of National Industries for the Severely Handicapped, and executive director, Pueblo Diversified Industries, Pueblo, Colo. I have with me today Mr. Eivind Johansen, executive vice president, National Industries for the Severely Handicapped. We are pleased to appear to provide information on the activities of sheltered workshops participating in the Javits-Wagner-O'Day program as well as our position regarding the issue of subminimum wages as related to section 14(c) of the Fair Labor Standards Act. As suggested, we will also comment on the economic impact of sheltered workshops on industry and so-called abuses in workshops. My comments will summarize our written statement, which has been provided for the record.

First, a little background on National Industries for the Severely Handicapped, more commonly known by the acronym NISH. NISH is the nonprofit agency that provides technical assistance to sheltered workshops employing the other severely handicapped who are interested in securing Federal contracts under the mandatory procurement provisions of Public Law 92–28, the Javits-Wagner-O'Day Act.

The other severely handicapped represent all severely handicapped other than the blind. Our primary objective is to provide jobs for people who are severely handicapped and to promote their placement into competitive industry.

At the suggestion of Congress, NISH was organized in 1974 by a coalition of agencies long connected with serving severely handicapped individuals. They are: Goodwill Industries of America, National Association of Jewish Vocational Services, National Association of Rehabilitaton Facilities, National Association for Retarded Citizens, National Easter Seal Society, and United Cerebral Palsy Association. Since its inception in 1974, NISH has succeeded in: (1) creating over 2,300 new jobs for severely handicapped individuals; (2) assisting over 120 workshops in obtaining Federal contracts; and (3) securing for those workshops approximately $30 million in prime contracting.

I will now address subminimum wages and section 14(c), Fair Labor Standards Act. To understand why it is in the best interest of a handicapped individual to ever receive less than the minimum wage. It is necessary to understand the function of sheltered workshops where that wage is paid.

Sheltered workshops are work-oriented rehabilitation facilities which provide gainful employment on a temporary or extended basis to severely handicapped persons who cannot be readily absorbed into the competitive labor market. The work experience, vocational training, intake, vocational evaluation work adjustment, and other related services are designed to prepare client-employees for competitive work. The activity is facilitated by undertaking contracts with industry or government, or developing proprietary products, which provide income for the workshop and realistic job opportunities for the client-employees.

While advocates of a mandatory minimum wage contend that workshops are not run as businesses and have no motivation to do so, we do not agree. With grants and donated funds becoming extremely scarce, sheltered workshops are becoming increasingly dependent on their business income and must be well managed to survive.

We cannot overemphasize the fact that standards for sheltered workshop clients require that they not only work in the workshop, but that they receive the services I just mentioned. If the handicapped client no longer needs any or all of the services, then the client should be placed in competitive industry or employed as a non-client employee making the minimum wage or above.

Although grants and State funds can be used to help offset some rehabilitation costs in workshops, it is never enough. It does not begin to cover such things as additional wages for extra supervisors and placement professionals, proportionately more fringe benefits necessitated by a much greater number of total paid working hours per task, special rehabilitation engineering services to design special tools and equipment, and the capital investment to buy that special equipment. This is where the so-called profit is invested.

Before discussing the actual impact on sheltered workshops if the minimum wage were made mandatory, we want to emphasize the inherent differences between blind workers and the other severely handicapped in order to respond to the subcommittee's concern for both elements of the handicapped population. Our point is that individuals who are blind and not disabled in any other way generally have a higher productive capability than do the other severely handicapped, which includes the multiple handicapped categories. Statistics show that workshop wages for the blind generally exceed the wages for the other severely handicapped. While some other severely handicapped have a normal productive capability, most do not.

This is why section 14(c), in our opinion, is working; it is flexible and can be applied to the whole range of productive capabilities that exist in the other severely handicapped population. As workshop facilities serve increasing numbers of mentally and severely physically handicapped individuals, the broad provisions of section 14(c) become more appropriate, rather than less appropriate. Eliminating subminimum wages would severely impair the workshop's ability to compete for contract work. The least productive workers would lose their employment opportunities first, under such conditions, which would be in direct opposition to the requirements of the Rehabilitation Act of 1973. The act gives top priority to our most severely handicapped citizens in receiving vocational services. Ironically, those same individuals would be forced to return to institutions or to vegetate in their homes as tax burdens instead of productive, tax-paying citizens.

The Javits-Wagner-O'Day Act, and the procedures established by the Committee for Purchase from the Blind and Other Severely Handicapped that administers the act, require that participating sheltered workshops providing commodities or services to the Federal Government under its provisions must do so at a fair market price. A critical action in the process is the comparison of the workshop's estimated cost to produce and the fair market price the Government should pay for the item. In the past, our statistics show that at least 10 percent of our feasibility projects were terminated because workshop costs exceeded the fair market price. Given this historical evidence, the dramatic cost increases that would be brought about by an inflexible wage policy would increase the percentage of projects rejected due to an excess of workshop costs over the fair market price. This would, in turn, severely curtail the number of sheltered workshop jobs available to severely handicapped persons.

The increased direct labor costs would not only prohibit new items from being produced under the program, but we estimate that half of the current items would have to be dropped from production, as workshop's costs would exceed the fair market price derived by the statutory Committee.

In summary, NISH has not encountered any difficulties with the intent or implementation of the certification program under section 14(c). With more concentrated efforts toward enforcing compliance with proper wage rates, this system provides many handicapped persons with productive employment, whereas many of these persons would be unemployed without them. We support the minimum wage for all client-employees, but not at the expense of the very facilities that offer them the opportunity to earn it. But even more important than a quantitative difference in wages earned is the opportunity to work. Few of us would deny the therapeutic aspect of a day's work. To the handicapped individual, work means much more than therapy or wages. It means that there is a place to go where people are friendly, understanding, and accepting; a place where the person has the chance to make a real contribution, to be appreciated as a valuable member of a team effort, and to participate in a meaningful and stimulating environment. This is what our program, and sheltered workshops in general, offer to handicapped persons. Federally controlled subminimum wages help make these achievements a reality.

With respect to the Fair Labor Standards Act, we recommend:

One: That section 14(c) be left intact, but that the Department of Labor be charged with heightening its enforcement by (a) increasing field compliance activities, and (b) increasing activities designed to better educate workshop administrators and Department of Labor compliance officers in the intricacies of the wage and hour laws and regulations.

Two: That the current regulations implementing section 14(c) be revised to allow more flexibility in determining the structure and activities of work activity centers. Current regulations are unduly restrictive and go beyond the scope of section 14(c).

Three: That the Department of Labor Advsoiry Committee on Sheltered Workshops be reestablished by appropriately amending the Fair Labor Standards Act. Because of the highly specialized nature of sheltered employment and the problems that arise in setting and administering equitable wage payments, we feel that the Committee's advice would be invaluable. No other committee or agency, nor the Labor Department's staff, is able to provide this needed grassroots expertise.

Four: That pending legislation to revise the current SSI and SSDI program be enacted expeditiously, to remove the current economic disincentives which discourage client-employees from increasing their productivity and earning higher wages.

Five: That the Department of Labor undertake to advise the sheltered workshops of current industrial wage standards via a publication or periodical. Workshops are having problems obtaining this information, and the Department of Labor could be of assistance in this regard.

It was suggested that we comment on another issue—the economic impact of sheltered workshops on industry.

The issue of economic impact is actually composed of three elements:

One: The impact of sheltered workshops on small businesses as a result of bidding on small business set-aside contracts;

Two: The impact of JWOD sheltered workshops on industry in general as a result of contracting under the JWOD program;

Three: The impact of sheltered workshops competing in the open market for both commercial contracts and unrestricted Government contracts.

I will discuss each element briefly.

First, impact on small business. It has long been the contention of small business advocates that sheltered workshops present unfair competition to the small businessmen of this country. Some of their objections and the counterviews of those in the sheltered workshop community are as follows:

(A) OBJECTION

Workshops do not have to pay corporate taxes and therefore have an economic advantage.

FACT

Workshops incur many hidden rehabilitation costs as a result of using handicapped individuals as direct labor; the independent Greenleigh study, commissioned by HEW, supports this premise, stating that for the overwhelming majority of sheltered workshops, business income is not sufficient to meet costs, even when costs include subminimum wage payments. These extra costs include extra supervision, extra training, and special machinery and equipment.

(B) OBJECTION

Workshops can cut their labor costs by paying workers less than the minimum wage.

FACT

Sheltered workshop employees are paid according to their level of productivity; therefore, if a client is at the 50-percent productivity level, he or she will make half the industrial standard wage for that job, and take twice as many hours to produce the same amount of work as someone at normal productivity. The workshop pays the same amount of dollars per unit of output as industry; in fact, workshops sometimes end up paying more because clients are not always able to complete each of the tasks on an industrial job description.

(C) OBJECTION

Sheltered workshops will take a large share of the contracts normally allotted for regular small businesses.

FACT

During a fiscal year 1978 test program to allow workshops to bid on small business set-asides, results showed that workshops represented 0.00022 of total set-aside dollars or $1.1 million of $5.1 billion.

(D) OBJECTION

If workshops are only going to receive this much business from set-aside eligibility, why do they need it? And besides, they already have the JWOD program.

FACT

For an average-sized sheltered workshop, the mean of $60,000 for set-aside contracts won in fiscal year 1978 would add 25 percent to their industrial dollar volume. It is significant work for those workshops.

After 6 years, Javits-Wagner-O'Day contracts for workshops serving the other severely handicapped have grown to only $30 million. They constitute, on the average, about 20 to 25 percent of the industrial income of workshops with such contracts. They are heavily regulated contracts, and difficult and time consuming to acquire and maintain. Bidding on small business set-asides is a faster, less complicated method of obtaining Government contracts.

Ninety-five percent of the businesses in the United States are considered small by SBA standards.[1] Should workshops for the severely handicapped be forced to compete against the remaining 5 percent of big business, while small businesses employing able-bodied workers are protected?

More and more commodities/services are being placed on small business set-asides thereby taking a larger available share of the market, that is, due to pressures to increase small business purchases from within Federal agencies and from outside sources. Small business has a large implementing arm to administer the program throughout the Federal bureaucracy. The severely handicapped have only the statutory committee and two small nonprofit organizations—none of which are lobbying agencies.

Federal agencies have specific goals established for small business; however, no numerical goals are established for increasing procurement from the severely handicapped. Commendations are received by Federal agencies when awards to small business are increased. In our experience we have never seen a commendation for increasing awards to the severely handicapped.

The second element of economic impact concerns the impact of JWOD workshops on industry in general. In enacting the JWOD Act,

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[1] Washington Post, Mar. 11, 1980, p. C-1.

Congress acknowledged and accepted the fact that every workshop contract ultimately results in a loss of business on the part of the competitive private business firm that would otherwise have been selected. Congress also recognized that there is a need for the massive purchasing power of the Federal Government to help promote a desirable social goal.[1] Accordingly, they charged the Presidentially appointed Committee for Purchase From the Blind and Other Severely Handicapped to consider the serious adverse impact on industry of each commodity or service added to the procurement list. The Statutory Committee, therefore, does not permit a workshop to become the supplier for the Government where there is serious adverse impact on the current or most recent contractor. The Statutory Committee reports annually to Congress and is held accountable for its acts. On the other hand, there is no similar committee or agency to evaluate the adverse impact on the workshop of Government awards made to small business or to industry. In addition, the small yearly business that workshops produce for the Government is spread over a wide variety of items; therefore, no single industry is substantially influenced by sheltered workshop activities.

Finally, there is the impact of sheltered workshops as a result of competing in the open market for commercial contracts and unrestricted Government contracts. The analysis of this situation rests with a premise which NISH has continually emphasized in these as well as other hearings: If anything, workshops tend to be at a competitive disadvantage, rather than at an advantage. They therefore will never be able to significantly impact the U.S. economy as a whole. To illustrate this point, the total dollar volume of Government procurement in 1978 was $78.8 billion. The total workshop portion of that dollar volume was 0.00027.

Our recommendations concerning the issue of economic impact are as follows:

One: Congress has twice shown its intent to allow sheltered workshops to be eligible for the SBA set-aside program. Public Law 92-89 made workshops eligible for fiscal year 1978 and H.R. 11445 extended this eligibility for 2 more years. Unfortunately, H.R. 11445 was vetoed by the President for reasons not related to this issue. Currently, S. 918 includes authority for workshops to bid on SBA set-asides, but it appears that, again, this bill will not be enacted due to considerations unrelated to the handicapped provision. NISH recommends that Congress pursue its demonstrated intent by authorizing this eligibility statutorily—by a separate bill, if necessary. This will bring an end to the current situation which protects small business from big business, but which does not afford this protection to sheltered workshops who actually need it more.

Two: We urge the Congress, as well as other concerned agencies and parties, to support the concept of using the Federal procurement system to provide work opportunities and better wages for handicapped individuals. Our statistics indicate that workshops producing under the JWOD program are able to pay a substantially higher wage to their client/employees because Government work is of a prime contracting nature.

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[1] House of Representatives Rept. No. 93-1316, Aug. 1974, pp. 7 and 15.

Three: We recommend that Federal agency regulations be amended to require procurement officials to use contract dollars awarded to sheltered workships to meet predetermined goals; this is an established procedure for small business awards, and if extended to sheltered workshops would enable all concerned to gather statistical evidence as to the total dollar volume of workshop business with the Federal Government.

It was also suggested that we comment on a third issue—the allegations of abuse in sheltered workshops.

Recent media allegations charge sheltered workshops with being unsafe, unhealthy, unfair—"sweat shops" is a term used in one newspaper article which was very clear in its denotative impact. We have submitted for the written record an analysis of statements made by the Wall Street Journal, showing how specific facts and figures were distorted and taken out of context, whether intentionally or unintentionally, to give the impression that handicapped individuals are being exploited and abused all across the country. They are not.

The sheltered workshop community has suffered irreparable loss of confidence and credibility with the general public, which has been a source of support both financially and otherwise for many years. We offer no remedial action to Congress, but urge all concerned individuals, and perhaps the Congress as a whole, to be more aware of investigative reporting practices which are designed as much to create a salable story as to enlighten the public.

In conclusion, we would like to express our appreciation for the opportunity to present the views of NISH on these important issues, and to commend the subcommittee for the concerns which generated this hearing. We firmly believe that, on the whole, our Nation's severely handicapped citizens are being well served by the various State and Federal programs, and that with the continued concern and help of Congress and administrative agencies we will be able to refine those programs to achieve the maximum benefit to the handicapped citizens of our country. Thank you.

Mr. BEARD. We have no questions, but I want to say in closing that you did an excellent job in presenting your point of view and your summary. Your whole statement will be totally accepted into the record and whatever you stated in your oral summary will also be part of the record.

Mr. DAUGHERTY. May I make one further comment?

From listening to the testimony earlier, I have kind of the feeling that someone does not think the Labor Department is capable of policing this type of situation. I think it is capable if they would do what probably needs to be done, and maybe this is speaking against workshops, but I think those that are in violation and those who are exploiting the individuals, in some way abusing them, should be made examples and once their certification is taken away I think that will spread through the workshop movement and anyone who is out of compliance will hurriedly come into compliance to prevent loss of their certification.

Mr. BEARD. Thank you. The committee stands adjourned.

[Whereupon, at 11:40 a.m., the subcommittee adjourned.]

APPENDIX

The Brooklyn Union Gas Company
195 MONTAGUE STREET
BROOKLYN, NEW YORK 11201

EDWIN J. VETOG
SENIOR VICE PRESIDENT
CHIEF FINANCIAL OFFICER

January 31, 1979

COPY COPY COPY

Mr. Frederick Taylor
Executive Editor
Wall Street Journal
22 Cortlandt Street
New York, N.Y. 10007

Dear Mr. Taylor:

Your recent series on sheltered workshops for the blind was extremely misleading in that it distorted or omitted much of the information made available to your reporters. Your readers are entitled to know more about these workshops than the Journal chose to tell them. This letter is an attempt to touch on only the most obvious misrepresentations and omissions, expecially as they apply to The Industrial Home for the Blind, of which I have most knowledge.

The opening sentence of the first article sets the prejudicial tone for all that follows by implying that these workshops are called sheltered because they are "sheltered by law...from having to pay blind workers the minimum wage." Nothing could be further from the truth. The fact is that these workshops are considered sheltered because they enable handicapped persons to participate in a work opportunity, free from the production requirements of the competitive labor market. The workshops exist only for those who cannot be placed in the private sector. In the case of The Industrial Home for the Blind, nearly nine out of every ten members of the work force in the shops are blind and additionally handicapped. The shops enable them to achieve the dignity of employment while receiving the other supportive services that they require.

Your article was critical of the wages paid in IHB workshops. These wages are based on the prevailing rates for like operations in private industry in the New York area. A wage is established through an analysis of the cost of per-piece production by sighted labor. The individual blind person's earnings reflect his own level of productivity. The wage practices of IHB and other workshops for the blind are authorized and monitored by the U.S. Department of Labor.

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Perhaps the most misleading and harmful example of biased reporting in the series is contained in the statement: "providing of services to the blind is decidedly secondary to the running of the revenue-producing workshops." The workshop program run by The Industrial Home for the Blind is only one of some 28 other programs and services administered by IHB in the metropolitan New York area. In addition to the 130 persons employed in IHB workshops, approximately 5,000 other blind persons made use of IHB last year. They did so at 13 facilities scattered throughout a four-county area, including the Helen Keller National Center, a federally-funded national program for deaf-blind persons, the only one of its kind in the United States. As for the specific services that are part of the workshop program, it was repeatedly emphasized on the visit of your reporter that these include regular physical examinations and medical care, optometric services for those workers with low vision, the help of trained social workers in dealing with the other employee problems that relate to blindness, supplemental lunch, rehabilitation counselors, mobility instruction, audiology and much more. To have deliberately omitted this information suggests that the reporter never grasped the essential purpose of the workshop as a means for serving, not exploiting the blind. Had these facts been included in the original article, they might have helped your readers understand why the Department of Labor has seen fit to allow these workshops to pay employees a piece-rate based on prevailing wages for like operations in the New York area.

Your statement that workshop agencies make no attempt to place employees in "better-paying jobs elsewhere" also misses the point. Workshops are an alternative for blind persons who, for valid reasons, cannot be placed elsewhere. The problems of securing adequate employment for handicapped persons has led to the intervention of the federal government in mandating Affirmative Action programs to employ the handicapped. IHB, for its part, employs two full-time placement specialists whose responsibility is the searching out of job possibilities for the blind. A more thoughtful consideration on your part might have been the question of why blind persons have trouble securing employment in private industry in the first place.

The statement that IHB exceeds the percentage of sighted employees permitted by the Department of Labor is simply incorrect. Eleven percent of IHB workshop employees in direct manufacture are sighted. The President's Committee for the Purchase from the Blind and Other Severely Handicapped, recognizing the necessity that some sighted persons may be needed to help meet workshop production demands,

-cont.-

allows 25%. It was pointed out to your reporter, that the other sighted persons he saw on his visit to the IHB shop were there in a supervisory or materials-handling capacity.

Finally, reference must be made to the unconscionable comment that IHB pays certain retarded blind employees in "beads and pocket combs". IHB does not supplement salary with beads and pocket combs. Workers are paid on the basis of their piece-rate earnings. The severely multi-handicapped persons in our Work Activities Center are there primarily only for therapeutic reasons. Accepted principles of behavior modification are used as part of the rehabilitation process to provide an additional and understandable incentive to these very limited individuals. To suggest otherwise is to reveal, again, the prejudicial nature of these articles. Your readers deserve better, as do the many worthwhile agencies that serve the blind in this country, to whom these irresponsible articles will undoubtedly do incalculable harm.

Very truly yours,

Edwin J. Vetog
President of the Board
of Trustees of The Industrial
Home for the Blind

EJV:va

cc: Warren H. Phillips
Chairman & President
Dow Jones & Co.
22 Cortlandt Street
New York, N.Y. 10007

QUESTIONS FOR:

Joseph Larkin, President
General Council for Workshops
for the blind

CATEGORY 1.

How many production employees did you have engaged in direct labor during your last fiscal year?

How many of these employees engaged in direct labor were blind?

How many were sighted?

What was the average hourly wage paid to blind production employees engaged in direct labor during your last fiscal year?

Provide the comparable figure for sighted employees engaged in direct labor during your last fiscal year.

CATEGORY 2.

Among your sighted production employees engaged in direct labor during the last fiscal year, how many maintained productivity ratings of at least 100% of the norm for the jobs to which they were assigned?

Please provide a list containing the productivity rating, prevailing hourly wage rate, earned hourly wage, and actual hourly wage paid for each sighted direct labor employee during your last fiscal year.

CATEGORY 3.

What was the lower hourly wage paid to a blind employee engaged in direct labor activities (including work in a work activities center)?

What was the lowest hourly wage paid to a sighted employee engaged in direct labor activities?

In the agency which you direct what was the highest annual wage paid to a blind employee engaged in direct labor last year?

What was the highest annual wage paid to a sighted employee engaged in direct labor last year?

CATEGORY 4.

What is the Executive Director's current salary, including the value of any deferred compensation and other fringe benefits?

What is the Executive Director's expense account?

ATEGORY 5.

Does the Industrial Home for the Blind operate a Work Activity enter?

How many blind persons are working in that Work Activity Center?

What was the total value of goods and services produced regardless of where they were sold or if they were sold) in the rk Activity Center during your last fiscal year?

ATEGORY 6.

What are the circumstances surrounding the inaccurate productivity andards established last Spring for a production b at the Industrial Home for the Blind and mentioned on the CBS elevision program, 60 MINUTES?

What method did you use to arrive at the productivity rate for is job?

What specific company or companies did you survey, if any?

Was it discovered that the pay rate was less than the law required r that particular job? If so, how was this discovered?

What was the total amount of back pay returned to blind production rkers on that job?

The Subcommittee has received testimony that there are rious flaws in the productivity based system which is used to termine proper wage rates under Section 14(c), and we are are of the incident, reported by the CBS television program MINUTES, where workers on a job at the Industrial Home for the Blind re found being paid wages lower than those they were entitled to.

In view of these circumstances, what guarantees are there that e wages paid in sheltered workshops are equitable and in accordance th what the law allows?

What additional safeguards, if any, should be provided?

ATEGORY 7.

I would like to know more about how you establish pay rates for ndicapped workers in sheltered workshops.

How does the Industrial Home for the Blind (your agency for example) termine the legal wage to be paid to blind workers on jobs in your t mop operation? Give details.

How did you originally establish the prevailing wage rate for jobs this operation and what are the current prevailing rates?

With what frequency is the prevailing wage rate reviewed and if cessary, revised?

How many times has it been revised in the last three years? How many times times in the last year?

What industry or industries do you survey? Name specific companies.

Are their production methods identical to yours? What are the differences, if any?

Is the equipment identical to yours? Is it older, or newer?

Do you ever bring sighted workers into your plant to test their productivity under your normal conditions and with your normal methods of production?

Do you ever take blind workers to an outside plant to test their productivity under the working conditions from which you draw the prevailing wage?

CATEGORY 8.

Are revenues from your industries operations at the Industrial Home for the Blind used in agency programs other than the workshops, and to what extent, if any, is this done?

What specific programs operated by your agency are regularly or sometimes supported in whole or in part by workshop revenues?

Indicate all the ways (including salaries and expenses for industrial operations) in which workshop revenues are used by your agency and the percentage of revenue used for each purpose during your last fiscal year.

CATEGORY 9.

In your experience, what are some of the steps which management can take to maximize productivity for each individual production employee in the workforce?

Do you think management skill is a factor in determining worker productivity, and to what extent should this be considered significant?

CATEGORY 10.

Should the law require a given standard of management performance for obtaining Section 14 (c) certificates?

CATEGORY 11.

How can we assure production employees that it is fair to pay them strictly on the basis of their speed and quality of work, when those employees do not control several factors such as specific production methods, type of equipment used, reliability of equipment, and so on?

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September 19, 1980

Mr. Earl F. Pasbach
Staff Director - Counsel
Subcommittee on Labor Standards
Committee on Education & Labor
617 House Office Bldg. - Annex 1
Washington, D. C. 20515

Dear Mr. Pasbach:

This is in answer to your letter of July 3, 1980, requesting information on the questions submitted subsequent to my testimony at the Oversight Hearing held before the Subcommittee on Labor Standards. Some of the questions required considerable research and in this regard it has taken some time to complete my response. IHB has always mandated a policy of full disclosure and we are pleased to comply with your request for additional information.

I have taken the liberty of numbering the questions submitted by category as an expedient. My answers will be referenced to these numbers and I am enclosing a numbered copy of your original list of questions. The fiscal figures contained herein concerning client population, wages, etc. are for the period October 1, 1978 - September 30, 1979 and are in part taken from the National Industries for the Blind annual report for that period. Fiscal figures pertaining to other questions are from our latest certified annual report for the period ended June 30, 1979.

CATEGORY 1

During the fiscal reporting period, 148 production employees were engaged in direct labor operations. Of this total, 134 were blind and 14 were sighted. The average hourly wage paid to blind direct labor workers in the sheltered workshop was $2.51 per hour. The average hourly wage paid to blind direct labor workers in the work activities center was $1.06.

The number of multihandicapped blind persons in the workshop and work activities center exceeds 87.6%.

Sighted workers are paid on the basis of the same piece rates used for blind persons for the same job. The comparable figure for sighted direct labor workers is $3.57 per hour.

CATEGORY 2

8 of the 14 sighted workers maintained better than 100% of the norm for the jobs to which they were assigned and were paid on the same piece rate basis for the job as applied to the blind employees. In addition, 3 were terminated after it was determined that they would not be able to reach or maintain the norm. 2 of the 14 are also required to supply material to work stations employing blind workers in addition to their own direct labor operations.

The following is a listing of the wages and productivity rating of all of the sighted workers:

	Earned Avg. Wage	Actual Avg. Wage	Prevailing Wage	Productivity Rating	At 100% or more of Norm
1.	3.65	3.65	3.15	116%	X
2.	4.18	4.18	3.93	106%	X
3.	5.03	5.03	3.93	128%	X
4.	6.00	6.00	3.93	153%	X
5.	3.50	3.50	3.34	105%	X
6.	4.86	4.86	3.34	146%	X
7.	3.46	3.46	3.34	104%	X
8.	3.43	3.43	3.34	103%	X
9.	3.18	3.18	3.34	95%	
10.	2.67	2.78	3.34	80% (a)	
11.	2.76	2.90	3.34	83% (b)	
12.	2.40	2.65	3.34	72% (c)	
13.	2.81	2.90	3.34	84% (d)	
14.	2.79	2.90	3.34	84% (d)	

(a) Terminated after 3½ weeks
(b) " " 10 "
(c) " " 11 "
(d) Required to supply material to work stations employing blind workers in addition to their own direct labor operations. This reduces their daily piece rate production.

CATEGORY 3

The lowest hourly wage paid to a blind employee engaged in direct labor operations was $1.55 per hour in the sheltered workshop and $.40 per hour in the work activities center.

The highest annual salary paid to a blind employee in direct labor operations was $11,710 while the highest annual wage paid to a sighted direct labor worker was $8,516.

CATEGORY 4

The Executive Director's salary is $40,554. and there are no deferred compensation benefits or any other form of compensation and no expense account.

CATEGORY 5

The Industrial Home for the Blind does operate a work activities center for severely multi-handicapped blind persons, most of whom are brain damaged in addition to blindness. A large number of these individuals are institutionalized at the Suffolk Developmental Center and the Brooklyn Developmental Center (two institutions for the developmentally disabled) and attend our program daily.

The total value of goods and services produced for the same period is $18,000.

The average wage earned by the blind work activities center employee was $1.08 per hour including wage supplement.

CATEGORY 6

At the time that the producers of CBS' SIXTY MINUTES visited the IHB, we were in the process of our usual annual review of all of our piece rates but had not yet reviewed a new brass fitting job. In looking at the operation, along with the staff from SIXTY MINUTES, we agreed to review it immediately. We found that an error did exist which we immediately rectified. The problem had been created by the fact that we originally priced out three styles of the brass fitting. When the work actually came into our agency, there were various substyles within the three styles we had priced. Although these substyles looked to be the same, some contained finer thread fittings requiring longer time for connection and the rates had not been adjusted accurately. All the jobs from this company were then retimed and new piece rates established. Production records were reviewed from the time work first began on this contract and as a result, we then voluntarily provided back wage payments to 40 blind clients totaling $2,540.17.

The method used to arrive at the productivity rate was the basic time study method advocated by the U. S. Department of Labor; i.e., timing non-handicapped workers, on a predetermined production method, producing at the actual setting where the job would be performed, for a 50-minute hour. The figures derived from this time study were then divided into the prevailing wage for this type of operation. The prevailing wage was obtained from the New York State Employment Service, Stuyvesant Center, Brooklyn, New York.

The principal guarantee that wages paid in sheltered workshops are equitable and in accordance with what the law allows are the audits performed by the U. S. Department of Labor. In addition to this, management reviews procedures annually. As a result of the aforementioned situation where an error was noted in piece rates, we have instituted changes which help to safeguard against a reoccurrence. For example, when a job is timed and priced, the individual responsible for this is also responsible for seeing that the job which actually comes in is the same as that which was originally timed. Additional safeguards would be to encourage increased monitoring by the U. S. Department of Labor.

CATEGORY 7

Productivity rates for our wet mop operations are determined by using non-handicapped persons on the actual machine and work station where the job is to be performed. The basis of the time study is a 50-minute hour. We do not use productivity rates from any other source since equipment, operation layout and types of materials are subject to change, and often do, from manufacturer to manufacturer. In the same vein, we do not take blind people to other settings for the same reason. We do not bring sighted people in for productivity tests since we use our own employees.

The prevailing wages for our wet mop operations are obtained from the State of New York, Department of Labor, Division of Research and Statistics, who provide a bulletin on Earnings and Hours in Fabricated Textile Products Manufacture. Current prevailing wage is $3.57 per hour.

Prevailing wage rates are reviewed and revised on an annual basis or sooner if an operation is modified. During the last three years, the prevailing wage rate has been revised three times. The most recent was January 1, 1980.

CATEGORY 8

The Industries' operations for our last certified fiscal year resulted in a deficit of $148,000. Consequently, the Industries' operations were subsidized from the general funds of the Agency and other supporting programs. Obviously since there were no excess revenues generated by the Industries, they could not support other programs of the Agency.

During this fiscal period we generated sales of $3,728,000 on which we lost 3.9% or $148,000. The composition of the costs and expenses totaling 103.9% was as follows:

Manufacturing cost of sales (material, labor & manufacturing burden)	85 %
Delivery expense	2.3%
Shipping "	2.5%
Selling "	5.9%
Other "	4.3%
Work Activities Center Costs	2.9%
Client supplements	1.0%
	103.9%

CATEGORY 9

The steps Management can take to maximize productivity of production employees are ongoing training evaluation programs, adequate support programs where needed, development of production methods and jigs for the utilization of individual skills, frequent exposure to varied work opportunities and utilization of new technology and equipment.

Management skill is a factor in determining worker productivity particularly in the areas of establishing work flow patterns, material handling procedures, job layout, utilization of jigs and other engineering and managerial technology.

CATEGORY 10

Perhaps the Law should require that the National Accreditation Council workshop standards be used in evaluating management performance as a requirement for obtaining section 14(c) certificates.

CATEGORY 11

In answer to your last question, you should be aware of the fact that when piece rates are established at IHB, we use the specific production method and equipment which will ultimately be utilized in the actual operation of the job. Consequently, it is immaterial as to what equipment is used, etc. since the piece rate established is relative to the methods and equipment used.

As to the reliability of equipment, we maintain our own machine shop and three full-time mechanics who are responsible for special jigging, guarding our machines, preventive maintenance and repair that assures their reliability.

Thank you for the opportunity of presenting our position and the courtesies extended to us at the Oversight Hearing.

Sincerely,

Joseph J. Laskin
Executive Director

JJL:gk
Encs.

MAY 9 1980

OUT MAY 16 1980

NATIONAL FEDERATION OF THE BLIND OF COLORADO, INC

[illegible] SO. BROADWAY • DENVER, COLORADO [illegible] • [illegible]

May 3, 1980

Representative Patricia Schroeder
Washington, D.C.

Dear Pat:

We are dealing here in Colorado with a very common kind of problem faced by the blind nationwide and one which is serious and I feel is illegal. The center here calls itself an evaluation and training center. Therefore, it is eligible to receive much larger federal funding. People are sent there by the counselors to receive evaluation for job skills. This is what we are told when we ask questions. Yet, you will see from the enclosed statements and as well from a few additional facts I will give you, few people are placed in jobs and many have been there for ten years and some morethan twenty years. How can you call this evaluation and training? Yet they do and they receive large amounts of tax dollars while they do it. People are treated as small children would be treated, given degrading jobs, not given any training which will help them to achieve the true ability to cope with jobs in the "real world", and so programmed to fail that they must return to the shop if they do attempt employment outside the shop. When they stay there, they are called clients, not employees, and therefore have no rights or benefits of regular employees. They are paid practically no money, as you will note from the enclosures, and then are told that they can't work outside for reasons of health, or that they would pay them more but they would lose their SSI checks, all the usual line given to blind people by shop managers.

There was one young man I tried to reach for a statement, but he has now left Denver and I was unable to get in touch with him. However, I am very familiar with his story and would recount it here for your information. He worked in the department which makes brooms and mops. The machinery was broken down a good deal of the time, he was unable to produce work because of this, was asked to help supervise others, and was paid far below minimum wage being told he was a client. He is only one of many in this state. He is now in another program of training and I believe will succeed in that program. He is competent. He is assertive, and came to NFB because he was so worried about what was going on at that shop and wished to make changes.

Pat, we have two options as I see it. Either we operate an evaluation and training center which truly trains people to be competent in the areas of travel skills, braille skills, the alternative techniques which we need to succeed in the sighted society, and I have only named a couple, and we pattern that center after successful centers who stress positive approaches to dealing with blindness, and we keep those blind people in that center until they are ready to be placed on jobs, or else we run a workshop and in that case, it is run like a business which is a paying proposition, and we pay those people adequate wages and create an atmosphere which is productive--but you can't do both. In this state, the people are being poorly served. Our tax dollars are being misused. Blind people are being kept below poverty level and being treated as inferiors by the people who are supposed to be professionally trained to prepare those people for independence. It must not continue. When I talk with those people at that shop at 100 West Seventh, call it what you will, it is still a workshop, I feel angry, frustrated, but most of all I feel that we must bring about the changes which will help them to get out of there into a productive setting.

Pat, testimony like yours will help all the blind people all over this country and we thank you for responding to our request for that help. I look forward to talking with you soon again either in Washington or in Denver, and it will probably be in Denver. Please contact us if there are further questions which you may have. I could write pages more on the shop situation, but I think the enclosures will give you valuable information.

Best of luck in the upcoming year.

Sincerely,

Diane McGeorge, President
National Federation of the Blind of Colorado

MAY 6 1980

UNIVERSITY OF COLORADO OFFICE OF SERVICES TO DISABLED STUDENTS
Division of Student and Minority Affairs
Willard Administrative Center 18
Boulder, Colorado 80309
303/492-8932

May 1, 1980

Mr. Kip Schroetis
Representative Patricia Schroeder's Office
2437 Rayburn Building
Washington, D. C. 20515

Dear Mr. Schroetis:

Over 5,000 blind workers are employed in sheltered workshops nation wide. The Labor Department permits a waiver to be granted which exempts these workshops from paying the standard minimum wage to these employees. While the current system for payment of blind workers in these shops is defended by the workshop establishment. There are a number of points which need to be made with regard to both the efficiency and the justice inherent in the system.

Wages for blind employees are set on the basis of measurements of productivity of the workers. These measurements are to be compared with the productivity of workers in non-workshop employment. A ratio of productivity to the standard minimum wage determines the rate of pay for the blind worker. Several categories which are supposedly linked to the level of disability of a blind worker exist. Each of these categories provides a minimum wage level which must be paid to a blind worker. This system has many inherent possibilities for abuse. The Wall Street Journal articles of 1979 delineates in a great deal of detail the way in which this abuse takes place. Let us note just a few of them here.

Often the productivity of blind workers has been measured on inferior equipment. The rates of pay determined in this way of course are unfair. The shops bid and negotiate contracts for a price which is too low to allow the payment of minimum wages. Because the current system allows persons to be paid substantially below the standard minimum wage these contracts can be bid below the level that unsubsidized competitors can make a profit. Blind workers are exploited and the shops have a substantial competitive advantage.

This system is subsidized by large amounts of state and federal funds. The entire edifice supports a very top heavy administrative structure. Well paid "professionals" are supported by the income derived from the labor of blind production employees and state and federal funds.

The rationale often provided for this "professional" overload is that the workshop is really a rehabilitation enterprise. Yet, the placement of blind workers in unsubsidized employment is only about 7%. Certification which allows a blind worker to remain in a rehabilitation status for up to five years permits the shop to both pay the employee a very minimum amount and also receive funds for the "rehabilitation" of the individual.

Workshops employing blind workers in scattered instances successfully pay the standard minimum wage and often hourly rates that are even higher. They do this by installing technologically sophisticated equipment which permit productivity from workers which is competitive with similar manufacturing. They also take a positive attitude toward the capabilities of their blind employees. Where a shop is to be operated it should be run efficiently, but where the goal is rehabilitation, the evaluation, training and placement of clients should take place rapidly and should not support the abuses of the workshop system. The mixing of rehabilitation with production has led to the creation of a system which provides incentives to the operators of sheltered workshops to prolong the rehabilitation process, substandard wages to employees and to create a mythology of the incompetence of blind persons. The removal of these incentives is crucial to the development of an efficient and just system of rehabilitation services to blind persons. Requiring that production workers receive the standard minimum wage is a straight forward way of accomplishing this end. It is time that outmoded custodial approaches to serving our blind citizens be discarded in favor of an approach which recognizes blind persons to be normal people who with the proper attitudes and appropriate training can compete on an equal basis with sighted peers.

Sincerely,

Homer Page
Vice President
National Federation of the
Blind of Colorado

HP/tlh

Memo:

Re: Employment at Evaluation and Training Center
100 West Seventh
Denver, Colorado

I would like to explain a few of my duties while I was employed with the workshop. I left there January 15 for a number of reasons, health reasons and others. I still keep in close touch with people who are there and so what I'm going to tell you is what I observed as well as what is still happening.

The workshop is called an evaluation and training center. I worked at the desk answering the telephone etc. I was supposed to be a receptionist and was supposed to be "training" people to be receptionists. I had a telephone which had only four lines, and yet it was called a switchboard. I was not given typing work to do, the excuse being no one had time to dictate any. When people came to me to be trained, and then were told there were no jobs as receptionists because receptionists were required to do much more than answer telephones, I raised the questions about increasing the training which could be offered. I was told for a good many years that there wasn't time to teach filing, typing, and other skills receptionists needed, and yet I was supposed to be training people to go into work as receptionists. To my knowledge, from 1969 until I left, one and possibly two people were placed as receptionists and I would estimate at least 150 to 200 people spent time on that desk at one time or another.

Another part of my duties was this. The Brown Palace Hotel was approached for an order to make all the brooms, mops, etc. whcih they would buy. The agreement was made that the shop would get that order if the shop would have someone sharpen all the pencils the hotel used, 120 dozen a month. This was given to me to do along with answering the phone. I had an electric pencil sharpener and was supposed to be doing a time study on how long it took. Of course the time study never got done and when I talked about that, I was given vague answers about it. It was degrading to me to be constantly given these kinds of jobs, not to be able to give actual training to blind people and I have only given you a very few examples. I could go on for pages of other so called training programs which were supposed to be conducted that were equally mishandled and misrepresented.

Let me close with one more example. A good deal of money was spent to set up a film processing training center. At first some people were trained in there, but when it came time to place them in employment, only a very few were placed and those jobs were jobs in which the people were only required to work two to five hours a day and in no way could support themselves there or at the shop either on the wages that were offered.

Now there are two or three people, all sighted people, working in that film processing room because the shop has gotten some work in film processing but has employed sighted people to do it and not using blind people at all. I don't know if they receive the minimum wage paid but I would bet that they do if they were asked.

Once again when I asked why blind people were not being trained in the film processing and being used to operate it, I was told that the equipment was dangerous for blind people to use since now we are using what is called an electric film splicer. I know this is not true because I know a blind man who uses it and so once again we have more excuses and no training plus below poverty level wages for blind people.

I hope this will be helpful to you.

Sincerely,

Lyle Neff

Memo:

Re: Employment in Evaluation and Training Center (workshop)
100 West Seventh
Denver, Colorado

I have been at the workshop a couple of different times. The last time I went there, I worked on my braille and my cooking and these kinds of things. Then I started work in the sewing room where we make different kinds of things. My supervisor told me I wasn't very fast and so after I had some surgery on my hand, I just have been doing folding and clipping threads and that sort of thing.

Now they tell me that I am going to have to go and work in the contract area. In there, we have some different kinds of jobs. Sometimes we pack things into boxes like little computer parts. I will work in the sewing room part of the time and in there part of the time but I am worried about that because I don't know how much money I'll make.

At first I was told I would make $1.55 an hour, but now they say I will be on piecework and there are lots of days when people are sent home because there isn't enough to do in the contract area. Even if I work in the sewing room part of the time where they say I am only going to be worth about ninety cents an hour, and I work in the subcontract area on piece work or even for $1.55 an hour, I don't know how much I will be making and it won't be anything I can count on to pay my living.

I hope this will be helpful to you.

Sincerely,

Judy Henry

ame:

Re: Employment by Evaluation and Training Center
100 West Seventh Street
Denver, Colorado

I was contacted by Diane McGeorge and asked if I would give some information concerning my employment with the workshop here in Denver. I will tell you as concisely as possible what it is I do and have done and a little about my wages.

I have worked for the workshop for about twenty years. I do sewing in my own home. I first worked in Kremling, but have lived and worked for them in my home here in Denver for about the past fifteen years. I have made such things as dishcloths, potholders, dish towels, toaster covers, that sort of thing, but most of the time for the past number of years I have made ironing board covers. T hese ironing board covers are brought to me in large boxes. The material is cut out and I sew them on a power sewing machine. I then pack them back into a large box and they are picked up from my house.

I have received different amounts of money for making different items. When I make potholders, I am paid ten cents to bind them and sew them. I make eighteen cents for each ironing board cover I make. I make about fifteen of the ironing board covers in an hour. When Diane contacted me and asked to have me write this information and give you this description of my work, I wondered how much those ironing board covers are resold for after they leave my house. I called the shop and asked and was told that the ironing board covers sell for $3.15. They didn't know who I was when I asked. I did not ask where they are sold but I think in grocery stores etc. I wonder what happens to the difference between my eighteen cents per cover and the $3.15.

One last thing you might be interested to know. This is the most money I have ever made for sewing anything for the shop. Fifteen years ago I was earning twelve cents for each ironing board cover and have received a six cent increase in that length of time.

I hope my statement will be helpful.

Ruth Ashby

PREPARED STATEMENT OF JERRY E. LORENZ, PRESIDENT, LORENZ HOUSEWARES, NEWBURY PARK, CALIF.

Mr. Chairman, I feel the basic problem existing is the fact that the Handicapped Workshops (dba: Royal Maid Company, Hazelhurst, Miss; Mississippi Industries for the Blind; Seattle Lighthouse Industries, Seattle, Wash) specifically these mentioned blind industries are involving themselves heavily in the broom and mop field in the private sector. They have an unfair advantage, and use this against us, in that they do not pay any federal income tax, state income tax, local tax, or property tax. They are also supplied with unlimited amounts of capital for the purchase of production equipment by the various states involved.

These advantages are extremely large, considering both the cost of money and its availability, as well as the many taxes. We have found where these Industries have priced their items below cost. This is completely unfair to those of us in the private sector.

It is our understanding that back when Congress set up the platform for the Handicapped Workships, it was specifically stated in the provisions that they sell only to the federal government and state governments, and not in the private sector market, because of their obvious tax advantages.

Over the past years, they have been the only supplier of brooms and mops to the federal and state governments. However, recently, the workshops have been involving themselves more and more in the selling in the private sector market. Right now, the blind involvment is extremely heavy through an organization called Royal Maid Industries, which is owned by the National Industries for the Blind and is located in Hazelhurst, Mississippi. It is a known fact that Royal Maid salesmen have quoted prices that are not based on their costs. Example: in the Midwest, the Royal Maid salesman entered into a prospective customer's buying office and told the buyer that he did not care what the buyer was currently paying for brooms and mops. If the buyer would supply him with the current prices he was paying his current supplier, Royal Maid would supply equal items at a permanent ten percent (10%) less. It is also a fact that this Midwest buyer worked for a high-volume distributor who commands the best prices. The end result of this case was that a private sector manufacturer lost this much-needed business because he could not afford to sell all the items to this distributor at cost or below. This incident has happened more than once. Stories like this one are frequent in the circles of my industry.

In an analysis of the Blind Workshops management, we find there is a tremendous movement toward automation of the shops. Some of my colleagues have been in the handicapped shops on visits and they say they have never seen such modern and automated systems. They exist only in the handicapped workshops, because the private sector market cannot afford the heavy capital expenditures, for the return is too low to justify this type of large capital outlay.

There is a movement ot produce more product, but not to provide more jobs for the handicapped. The heavy commissions and large consulting fees being paid to people that are not handicapped are the ones benefitting from this. This is being done at the expense of the handicapped and the taxpayers.

My colleagues and I feel there have been deals in the Los Angeles area (refer to attached memo) which were completely unethical. These practices have been carried on by the sales and marketing staff.

The basic underlying problem seems to be there is no incentive on the manufacturing level for making a profit. The incentive is to produce more product faster, without regard to cost and so the marketing and sales people can make larger commissions without regard to the original intent of jobs for the handicapped people. This is not what the Congress made provision for.

The end result is that the handicapped workshops are stealing from the hands that provide, for it is the taxes that the private sector industry pays that helps provide for the existence of the workshops.

I request that either: you remove the tax-exempt status of the workshops at all levels, as well as their source of free capital, or enforce the original restriction that the workshops sell only to the federal, state, and local governments, as was set out in the original charter.

JERRY E. LORENZ, PRESIDENT
LORENZ HOUSEWARES, INC.

Enclosures:

Memo regarding Broom and Mop Companies and Handicapped Workshops

Wall Street Journal articles on this subject

U. S. News and World Report article

June 7, 1979
Revised May 5, 1980

~~NATIONAL INDUSTRIES OF THE BLIND~~
BROOM AND MOP COMPANIES
for the Handicap

~~NIB~~ Handicapped Industries

dba: Royal Maid Company, Hazelhurst, Miss.
dba: Miss. Industries for the Blind.
dba: Seattle Lighthouse Industries

Products produced:

Corn brooms, Plastic brooms, Yarn wet mops and mopheads, Sponge mops, Dustmops, etc.

Distribution:

Direct marketing to: Original Equipment Mfg. OEM accounts, rack jobbers, wholesalers, and direct store sales.

Economic facts relating to their operating:

1. Do not pay any Federal Income or other taxes.
2. Do not pay any State Income, property, or other taxes.
3. Virtually unlimited capital for building and equipment purchases.
4. Below minimum pay wage scales for production personnel.

Complaints:

1. Highly automat~~ing~~ed production techniques so as to eliminate jobs for handicapped people.
2. Unethical marketing practices.
   (a) Using economic advantages to undercut legitimate Private Sector manufacturing competitors.
   ~~(b) Commissioned salesmen collecting dual commissions from supplier and customers.~~
   (b) High price consulting fees paid to salesmen for unsure services, along with accepting commissions on sales.
   (c) Selling accounts on an OEM basis, and then coming into the territory and taking the account's customers direct, by cutting the prices.

SUMMARY:

The ~~NIB~~ Handicapped Industries are not content in selling components to ~~legitimate~~ Private Sector (OEM) manufactures. If they cannot obtain sales in a territory on a legitimate competitive manner, they will shortcut and undersell their customer or other competitors by means of using their economic advantages. (Refer to 4 items under Economic Facts)

There is a very recent case in Los Angeles that will illustrate this statement. Trademark Sales, Inc., a manufacturing rack jobber for several years, had been purchasing plastic brooms and mops from Royal Maid Inc. (~~NIB~~) and the salesman for Royal Maid was also handling sales for Trademark Sales and receiving a commission. Unbeknown to Trademark, Royal Maid war engineering a program where two of Trademark's major customers would switch and buy direct from Royal Maid. In order to effectively handle this business, Royal Maid has taken on warehouse space locally. All of this was achieved by major price cutting in order to take the business from Trademark, who in itself is a very competitive company. It is very evident that Royal Maid used its economic tax advantages to do this.

Another case in point happened a couple of years ago in Seattle. Seattle Lighthouse, for no apparent reason took their price sheet, which was already over a year old, and discounted it by 8% across the board for an indefinite period. There was no evidence that they were about to lose any accounts or gain any, and subsequently this has proved correct. It was very obvious that many of the items were then sold at cost and below cost.

In many cases similar to these stated cases, Royal Maid and the other related Handicapped ~~NIB~~ Industries are guilty of several unethical practices:

(1) Selling at any price - just to get the business.
(2) Paying heavy salaries and commissions to unhandicaped marketing people.
(3) Providing fewer and fewer jobs to the handicaped in this product category because of expensive automation.
(4) Causing unfair hardships and even contributing to the failure of legitimate manufactors and distributors whose taxes actually keep the Handicapped ~~NIB~~ Industries in business.

Going back in history to the time that Congress opened the way for tax exempt business to provide jobs for the handicaped, there were two primary restrictions:

(a) Federal and Government agencies were to buy their supplies from these handicap industries.
(b) The handicap industries were only to sell to Federal and Government agencies and not sell on the open market.

To this date, in the broom and mop category, the Handicapped ~~NIB~~ Industries still have a monopoly on Federal and Government orders and the private sector ~~legitimate~~ manufactors have been kept away from this business. But in the past 20 years, there has been a tremendous increase in involvement by the Handicapped ~~NIB~~ Industries in the open ~~public~~ market. The Royal Maid Division has been steadily enlarged and automated strictly to compete in the open ~~public~~ market. This was not the original plan by Congress.

I am requesting that Congress put these Handicapped ~~NIB~~ Industries back under the original restrictions of selling only to Federal and local Government agencies and stay out of the open ~~public~~ market, unless they are willing to give up all tax and capital advantages.

[From the Wall Street Journal, Wednesday, Jan. 2, 1980]

GAO STARTS PROBING SHELTERED WORKSHOPS OVER COMPETITION, TREATMENT OF WORKERS

Washington—The General Accounting Office is beginning an investigation of sheltered workshops to determine whether they compete unfairly with small business and whether they exploit physically or mentally handicapped workers.

The GAO investigation was prompted by requests from members of Congress, chiefly Rep. Barry Goldwater Jr. (R., Calif.). Rep. Goldwater's office said his request was "crystallized" by a series of articles about sheltered workshops in The Wall Street Journal last year.

Sheltered workshops are farms, factories or shops, mostly operated by charities and generally subsidized by federal and state governments, that are authorized by the Labor Department to pay blind, retarded or emotionally disturbed workers less than the $3.10-an-hour federal minimum wage. The about 3,850 workshops across the country employ more than 200,000 men and women; the work force has been growing at about 20,000 a year.

An investigator at the GAO, which is an arm of Congress, said the agency probably couldn't complete the inquiry until summer or early fall. "This is going to be a comprehensive study," he said. "Among other matters we want to see how the handicapped people are really being treated."

Besides the GAO investigation, the staff of a House subcommittee is gathering material in preparation for possible hearings about the workshop industry, and the Labor Department is doubling enforcement efforts. Studies and investigations of workshop conditions are underway in several states, and New York City's Mental Health department has developed the city's first tax-funded program to find jobs in industry for workshop employes.

In the private sector, the 1,000-member National Association of Rehabilitation Facilities recently adopted a six-page code of ethics that appears aimed at curbing questionable practices described in the Journal articles.

The association's new code seeks to eliminate inequitable pay for handicapped workers, promote safe and sanitary work conditions and stop unfair competition in bidding for subcontracts from industry. The code requires the establishment of grievance procedures for workshop employes, regular review of wage payments and periodic reports to the public. It also urges management to recognize "the rights of all workers to bargain collectively."

In a number of cities, blind workers claiming exploitation by workshop managers are turning to the Teamsters union for organizing muscle. Last September, for example, the National Labor Relations Board ordered the Cincinnati Association for the Blind to stop refusing to bargain about wages and work conditions with Teamsters Local 100.

Citing the Journal articles, the National Federation of the Blind is petitioning the Labor Department to stop authorizing subminimum wages for blind workers. The federation contends that employers won't hire the blind as long as they can save money by subcontracting with low-wage sheltered workshops. Closing arguments, following public hearings on the petition, recently were submitted, and a decision is expected in a month or two; there are indications that the department will go at least part way in granting the petition.

Herbert J. Cohen, assistant administrator of the Wage and Hour Division, wouldn't say how the Labor Department might rule. But in a telephone interview he ticked off a number of steps he said were intended to reflect the Carter administration's commitment to helping the handicapped.

In the current fiscal year ending Sept. 30 the department intends to double the number of workshop investigations to 400 from 200 last year, Mr. Cohen said. The department also is developing new procedures to test the validity of piece rates paid handicapped workers, and by spring it will publish proposals in the Federal Register aimed at tightening the regulations governing sheltered workshops.

[From the U.S. News & World Report, June 11, 1979]

LABOR—BLIND WORKERS CRY: "END EXPLOITATION!"

SIGHTLESS PEOPLE, WITH UNION HELP, ARE OUT TO CHANGE A LAW THAT LETS EMPLOYERS PAY THE HANDICAPPED LESS THAN THE MINIMUM WAGE

America's blind citizens are rebelling against what they view as exploitation of low-wage handicapped workers by charity groups.

Many blind workers were prepared to press their complaint June 5, when the Labor Department scheduled hearings to review the wages paid by 3,800 "sheltered workshops" across the United States. These shops employ handicapped workers to make such items as potholders, brushes, soap and small electronic parts. Nearly 200 of the shops hire only the blind.

The 50,000-member National Federation of the Blind sought the Labor Department hearings to present evidence that blind workshops earn millions of dollars selling their products at competitive prices while paying workers as little as 58 cents an hour. The group asked the government to require that all employers pay blind workers no less than the minimum wage, currently $2.90 an hour.

Ever since the minimum-wage law was enacted in 1938, all employers have had an option to pay less than the minimum to workers with handicaps that might limit their productivity. This option is rarely used outside of sheltered workshops.

The federation's petition was prompted by widespread unrest among the more than 5,000 employes of blind workshops, some of whom are beginning to join unions. At the Cincinnati Lighthouse for the Blind, for example, administrators now are contesting a vote by workers who chose to be represented by the Teamsters.

James Gashel, an official of the National Federation of the Blind, say the blind workers are responding to a new emphasis on civil rights for people with all sorts of handicaps. Gashel notes: "These people in the workshops are simply saying, 'We have rights, too.'"

Although the current dispute involves only blind workers, experts predict that ultimately it may mean higher wages for all handicapped workers—including thousands employed by Goodwill Industries of America, Inc. Says Noel Price, executive director of National Industries for the Blind and its 134 workshops, "Can we say that we will pay blind workers the minimum wage and ignore the deaf and the mentally retarded?"

***More opportunities.*—The dispute over wages for the blind also reflects a dramatic change in the status of handicapped people in the past few years. Once unable to get jobs outside special workshops, the handicapped now are being welcomed into industry at normal wages under new laws that prohibit discrimination.**

Blind people have been the chief beneficiaries of this change. Most of them now work alongside sighted workers in private industry. And Gashel insists: "There's nothing about blindness that makes a worker so unproductive that he needs to be paid less than the minimum wage."

Sheltered-workshop operators meanwhile are suffering from their own identity crisis. Says Charles Fegan, executive director of the Columbia Lighthouse for the Blind in Washington, D.C.: "From being the good guys, we've suddenly become the bad guys."

Most of the workshops have been operating for decades as nonprofit charities, often in connection with a social-service agency. Their products are sold mostly to the federal government, although there are retail Lighthouse stores in some cities. During the year that ended Sept. 30, 1978, workshops operated by the National Industries for the Blind reported 125 million dollars in gross sales. Workers averaged $2.85 an hour, but many earned less than the $2.60 minimum wage then in force. Total payroll costs were less than 20 percent of sales, or below the average for labor-intensive industries.

The National Federation of the Blind contends that the money these workshops save under the minimum wage exemption is being spent on huge salaries and plush offices for the supervisors, who are not blind. Moreover, the federation claims that the savings allow workshops to offer cut-rate prices to such large customers as Procter & Gamble and American Telephone & Telegraph Company.

Staying put.—Sheltered workshops also fail to encourage blind workers to seek jobs outside, according to the federation. A 1975 study showed that only 7 percent of all blind-workshop employes ever move into private industry.

Workshop operators defend their record on the ground that blind workers often refuse to go elsewhere. Price of National Industries says workshop profits barely cover the cost of extra services and supervision required by blind workers. A mandatory minimum wage, he adds, would force these workshops to lay off their least productive workers—the people who depend on their jobs the most.

"We don't oppose paying the minimum wage," says Price. "But we do oppose anything that would eliminate job opportunities for the blind."

The national federation insists that the workshops can be operated profitably at the minimum wage with better management. It cites as an example the Blind Industries & Services of Maryland, three sheltered workshops taken over in 1975 by a blind man with a proven talent for management. Employes of the Maryland workshops now average $3.19 an hour—plus vacation, sick leave and pension benefits.

Government officials appear to be listening to these workers' complaints with a sympathetic ear. Assistant Labor Secretary Donald Elisburg, who will decide the minimum-wage issue, says: "I don't see an end to the sheltered workshops—just a diminished role."

[From the Wall Street Journal, Jan. 25, 1979]

SHELTERED SHOPS—HOW A BLIND WORKER GETS $1.85 AN HOUR AFTER 20 YEARS ON JOB—WORKSHOP SETUP, MEANTIME, IS CRITICIZED FOR SPENDING OF TOP ADMINISTRATORS; ABOUT THE SERVICES FOR BLIND

(By Jonathan Kwitny and Jerry Landauer)

George T. wakes at 5 a.m., kisses his wife goodbye, catches three subway trains across three New York City boroughs, transfers to a bus and arrives for work at an aging factory in the heart of the Bedford-Stuyvesant slum.

The factory is one of several "sheltered workshops" run by the Industrial Home for the Blind," a charity that aims to rehabilitate blind people. George T. (not his real name) is blind. He has worked for the Industrial Home more than 20 years. Comments a friend, "If they call that a rehabilitation shop, it's sure taking him a long time to get rehabilitated."

Recently George got a raise. He now receives a guaranteed $1.85 an hour. A few months ago it was $1.33. Originally, it was just 25 cents.

The minimum wage is $2.90. But because George and about 150 co-workers are blind, the Industrial Home gets special approval from the Department to pay them much less.

The Industrial Home took in $3.5 million in workshop sales in the year ended June 1977 (the latest reported to the Internal Revenue Service). It paid out $384,013, or 11 percent in wages to blind production workers. The government doesn't tabulate comparable percentage wage pay-outs in private industry, but they are believed to be much higher.

The Industrial Home seems typical of the more than 100 sheltered workshops for the blind around the country, though a bit bigger than most. And George T. seems typical of the 6,000 or more blind workers.

He assembles mops. The work isn't exactly easy, or stimulating. The air is thick with lint. There isn't any hot lunch because the stove in the cafeteria has been broken for six months. (It was later fixed, after a reporter questioned officials about it.)

The Industrial Home tells George he can boost his pay to the minimum wage or higher at a piecework rate if he works better, but George doesn't believe that. Half a dozen of his colleagues (all a reporter could talk to before a supervisor threw the reporter out) indicated they feel the same way.

ASSEMBLING A MOP

How to assemble a mop: "You got a handle, a spring, a lever and a head," George explains. "You have to put all this together, put them on the head and then put them in the barrel. You get 22 cents a dozen. After three months I got up to five barrels a day." That's 50 dozen, or $11, or $1.375 an hour. "They say they've had guys who could do 100 dozen, but I don't believe it," George says. "Maybe 70 or 80 if they get good." That still isn't minimum wage.

Nearby, Sara F. (not her real name), is bagging mops in plastic containers. Her fingers are nimble, and it's hard to imagine anyone doing it much faster for a prolonged time. She says she's worked at the Industrial Home 15 years. She says she gets 10 or 11 cents a dozen, depending on the size of the mop. "I can do 80 or 90 dozen in a day," she says. "If I get $10, that's good."

Many goods made by the Industrial Home are sold to private industry at rates that competing small businesses can't match because of their higher labor costs. Most are sold to the federal government or the State of New York, which are required by law to patronize blind workshops.

Until recently, workshops added a 7% "override" fee to their contracts with state agencies, with the fee going to Industries for the Blind of New York State Inc., a nonprofit organization approved by the state and run by the individual charities to arrange contracts. It is similar to National Industries for the Blind, which performs essentially the same task for blind workshops coast-to-coast on sales to the federal government.

STATE'S FEE IS CUT

On Oct. 21, the agency that handles state purchasing forced Industries for the Blind to cut its "override" fee from 7% to 3.41% because of an investigative audit released two months earlier by the state comptroller. The audit raised many questions about how Industries for the Blind was using its 7%, or $336,000 a year, from the work of George T., Sara F. and other blind workers.

Among the points questioned:

Jean C. Goehrig, the general manager, and Jack B. Kleinstein, business manager, both of whom are sighted, got salaries of $45,600 and $30,600, respectively. The comptroller termed the salaries "inappropriate." In addition, more than $17,000 a year went into an annuity account from which liberal amounts were withdrawn by the two men and possibly others. The comptroller said a $5,000 withdrawal by Mr. Goehrig "might be construed as an attempt to avoid paying income taxes on these funds." Christmas bonuses of $850 were charged to the "purchases" account, and taxes weren't withheld.

Messers. Goehrig and Kleinstein each got new luxury cars from the charity every year. They submitted restaurant expenses "almost daily" totaling more than $25,000 a year, much of it on weekends. There were bills for $100 meals at swank New York restaurants, more than $1,400 for Christmas parties and an Easter dinner in Westhampton, but most of the money was spent near the organization's office in Garden City, N.Y. Since Industries for the Blind's customers are all government agencies that are required by law to give preference to the workshops, and whose officials aren't supposed to take gratuities anyway, the comptroller said he saw "no justification" for the restaurant bills. Besides, some bills appeared to be for meals eaten alone.

Some $96,000 was spent to purchase and spiff up the office building and lot. The building is shared with a tavern, where Industries for the Blind staff spent $3,000 a year at the charity's expense.

The comptroller criticized additional thousands spent on conventions, trips and the "unorthodox" and "high" payments made under "legal and accounting" and "dues and subscriptions."

Industries for the Blind workshops, meantime, often charged 15% more than prices available elsewhere to the state agencies required to give them preference, the comptroller said. The high prices were blamed on the supposed inefficiencies of the blind, the comptroller said, but were really caused by the way the workshops overpaid for materials. He added, "labor accounted for less than 2% of the price."

Moreover, the report said, Industries for the Blind sometimes sold the state goods that weren't made in the workshops but were bought on the open market—and then subjected to the 7% override fee as if they were made in the workshop. The comptroller's report made no mention of conditions in the workshops themselves.

LIMOUSINES TRADED IN

As a result of these disclosures, the override was reduced, and Messrs. Goehrig and Kleinstein discreetly traded in their charity-owned $13,000 Lincolns for a stationwagon. But they stayed on in their jobs and kept their salaries. The board that appoints them promised to cast a more discerning eye on expenses from now on, and to review their salaries. The board consists of representatives from each of 10 charities that run workshops in the state, at least some of whose officials receive compensation that rivals or even exceeds that accorded to Messrs. Goehrig and Kleinstein.

Beginning sometime this month, the board is to be overseen by Terrance Bartlett, acting director of the State Commission for the Blind. Mr. Bartlett says his office has already ordered a halt to spending on gifts and entertainment. He says that after he takes over, the Industries office will be moved to Albany and its salaries put in line with those of state officials. But he says any change in personnel will be "a board decision."

Asked what policy changes he has in mind for the program, he thought a long time and finally said he wanted to establish "more equitable" guidelines for allocating orders among various workshops. ("I'm not saying it was improperly done in the past," he added quickly.) Another goal: to seek out more sales upstate, which he termed "an untapped market."

Last week, Patricia Marsh, special assistant to Mr. Bartlett and, she says, the highest-ranking official at the Commission for the Blind in his absence, said that he was out ill and that she didn't know when the reorganization meeting might occur.

EARLY RETIREMENT

Meanwhile, the board apparently continues to be run by its longtime president, Joseph Pike. Mr. Pike came to the board representing the Albany Association for the Blind. whose workshops took in $1.2 million in sales in the latest reported year, ended September 1977, and paid out about $85,000, or 7 percent of sales, in wages to some 25 to 28 blind workers. A third of the workers are in a so-called "work activity center," where they can be paid less than one-fourth the minimum wage.

Mr. Pike, 56, retired early as director of the Albany association this fall so it could avoid what it calls "unwarranted bad publicity" in the wake of the comptroller's report. He is getting a pension, but won't say how much it is. John Minor, acting associate executive director of the association, says he has "nothing but good" to say about Mr. Pike.

"At no time did any in our workshop suffer," Mr. Minor says, though he says he doesn't know how many of his workers are receiving the minimum wage. "I don't believe there were any blind people in the State of New York that were hurt by this," he says.

Apparently not hurt either is John F. Heimerdinger, who runs the Jewish Guild for the Blind, one of the charities operating workshops in New York state. Mr. Heimerdinger has an office with a large desk area; a living-room area with leather-upholstered furniture, plush carpeting and paneling; a private kitchen; private washroom; one or two original art objects and a splendid view from the top floor of a new building on 65th Street just off Central Park West in New York. The building, with 10 stories above ground and two basement levels, is owned by the charity—and 94 percent of the space is occupied by it.

SALARIES OF THE STAFF

Mr. Heimerdinger says he draws a $50,000 salary (plus benefits) from the Guild, though its public filings with the IRS, sworn to by Mr. Heimerdinger, show much less. He explains that he and 50 or so other officials at the guild are exercising their legal right to defer up to 20 percent of their salaries—and not report the deferred amount on public filings. The latest IRS filing shows that seven officials are paid over $30,000 a year and none over $40,000; he says that in fact at least 11 are paid over $30,000 and four or five get more than $40,000.

The public filing also says Mr. Heimerdinger devotes "100 percent" of his time to being executive director of the Guild. But it turns out he also draws a salary as an employe of The Cooperstown Corp. of Maryland, a Wall Street investment firm he says is owned by his family. He declines to say what the salary is. Asked about his sworn statement that he gives 100 percent time to the Guild, he replies, "I still have evenings and week-ends." Asked how many other Guild officials may be moonlighting, he says he doesn't know.

Eleven stories below Mr. Heimerdinger, in the sub-basement, is a sheltered workshop. There, and in another shop about the same size in a factory district downtown, some 211 blind workers currently produce 2.7 million a year in sales to government and private industry (recently, Jewish Guild workers were packing thermometers for Becton, Dickinson & Co., a major medical-supply firm).

ANNUAL PAY: $1,400

The workers get about 10% of this sales revenue as wages. The average hourly wage, the Guild says, is $1.77, but the work isn't steady, so the average annual wage is $1,400 per worker.

To help explain that to a reporter, Mr. Heimerdinger calls in a public relations consultant who gets $25,000 a year from the Guild and also has other clients. They show figures depicting the workshops as drowning in $700,000 of red ink in 1977, despite $2.5 million in sales and lower worker salaries. The cost of materials is $1.6 million, and the blind workers' wages apparently are less than $240,000; that still leaves nearly $700,000 of revenue.

But it appears the Jewish Guild has charged to the workshop a huge share of the general overhead for the organization. The Guild takes in $11.2 million a year, about half of it from federal and state aid (it has large private donations, too). In 1977, it showed a $1 million profit after all expenses, which included $3.9 million for staff salaries. At the end of the year, it had net assets (after all liabilities) of $25.6 million—mostly stocks, bonds and certificates of deposit. Other than the workshops, its biggest functioning operation is a home for 125 elderly blind people, which accounts for $2.1 million of the expenses in the financial statement.

WORKERS' PAY

The statement charges the workshop program with $530,539 in staff salaries (compared with the $240,000 paid to blind workers and an additional $90,000 or so paid to sighted workers in the workshop). It charges the workshop with $125,566, or 24%, of the cost of occupying the main building in its choice location, even though the shop occupies only the sub-basement, and sometimes part of the basement. (The Guild says the allocation is figured by floor space, with the shop credited with occupying the two largest floors in the irregularly shaped building.)

The workshop is also charged with the largest share of depreciation for the building, for example, and with $217,780, or 63%, of the Guild's entire expense for accounting, computers and personnel and general services.

Mr. Meimerdinger arranges to give a reporter a tour. The building is attractive, well furnished and equipped—and practically deserted. There are long, empty hallways lined with mostly empty boxes. There are cavernous, well-stocked craft rooms, and meeting rooms, either empty or with just a handful of people in them.

The ninth floor—8,750 square feet—is devoted to mental health. It seems nearly empty; the caseworkers are all out making house calls. Mr. Heimerdinger says. He says they make about 100 calls a week, about one hour each. Two dozen or so workers share the floor, he says.

USE OF THE SPACE

In all, leaving aside the two workshop floors, the service and mechanical floor and one floor rented out to another organization, there are 100,000 square feet and 140 employes. That is enough to give each employe—every clerk and errand boy—a 25-by-30-foot office.

Of course, the space is also to be used by blind persons receiving services. After our tour leaves a typical large room—a ceramics shop where only one person is passing the morning—Mr. Heimerdinger says, "Maybe we had a field trip. We do a lot of that." He notes that it's nearly lunch time, and suggests looking in the cafeteria. But that isn't overflowing either. "A lot of people like to go out in the neighborhood (for lunch)," he says, adding that the cafeteria food sometimes isn't so good.

Later, Mr. Heimerdinger calls and says he's sorry there were only 56 blind persons involved in activities in the building the day of the visit. On an average day, he says, there are 83.

But the providing of services to the blind seems decidedly secondary to the running of the revenue-producing workshops. In the workshops like those run by the Jewish Guild and the Industrial Home for the Blind, where George T. and Sara F. work, the managements haven't any incentive to help them get better-paying jobs elsewhere, although that is supposed to be a function of the workshops. Instead, the workshops' self-interest is served by retaining the best workers, who produce the most income. Another complaint of blind workers is that the shops use sighted labor when it is more efficient to do so, thus violating what some see as their commitment to the blind.

SIGHTED WORKERS USED

For example, when the Jewish Guild got new paper-pad-making machinery recently, it bought a high-output machine that is run only by sighted workers. A lower-cost machine is available, though with lower output, that is run elsewhere by the blind. (The Guild says it thinks it bought the best machine available.)

Both the Guild and the Industrial Home, like many other sheltered workshops, have more sighted workers than the 25% allowed by law; they say the additional sighted workers are doing different kinds of tasks which blind persons can't do, and therefore don't count toward the 25%. Workers in the shops strongly disagree.

Another sore point among workers is an allegedly condescending attitude. An Industrial Home official, taking a reporter through the shop, constantly introduced grown blind men (white and black) as "boys." Another official, referring to some work-activity-center employes who were both blind and mentally retarded, but who were fitting small plumbing parts together, said the Home was paying them in beads and pocket combs rather than augmenting their 40-cent-an-hour salary. "The money doesn't mean very much," the official said. "What is important is to win a prize."

Seeking to show a reporter that workers get less than minimum wage only because they produce poorly, officials brought him to a man billed as a highly skilled worker who they said was earning much more. The man was operating a large machine that turned out brushes. He did indeed seem highly skilled; it would be hard to imagine a sighted person doing much better. On questioning, it was learned that he is paid $3.15 an hour—$129 a week before taxes.

When the officials weren't around, one worker commented, "They think, well, we're blind, anything they give us is all right."

Another chimed in, "We may be blind, but we aren't deaf."

SHELTERED SHOPS: MANY BLIND EMPLOYES FAIL TO EARN MINIMUM WAGE IN SHOPS ADMINISTERED BY CHARITIES

Though figures aren't available, Procter & Gamble may well be the biggest corporate user of blind workshops. Almost every shop contacted in connection with this story mentioned P&G as a contractor or potential contractor. P&G says it gives work to shops "widely scattered over the country" on a low-bidder basis, and it praises the quality of the work done. But P&G says "it isn't appropriate" to name the shops or give details.

Other sources, however, say P&G uses blind workshops to attach prizes or premiums to boxes, or to put them inside boxes, or to put items in plastic bubble containers. One worker trying to unionize the Cincinnati Association for the Blind, Roy Smith, 32, says he attached giveaway glasses to boxes of Duz soap powder for P&G for $1.49 an hour—the same pay he says he got at the workshop to put valves in plastic bags for Rockwell International.

By contrast, Milton Jahoda, the blind executive director of the Cincinnati Association for the Blind, received pay and benefit-plan payments of $42,000 in the year ended June 30, 1977, according to the association's latest report to the Internal Revenue Service. The same report shows workshops sales of more than $1.7 million for the year, an indicated operating margin of about $450,000 over workshop costs, including production wages.

BREAKING EVEN

A lawyer for the charity, however, says that the workshop's allocation of the charity's overall administrative expenses and overhead reduce this profit to about break-even. The lawyer and executive director Jahoda decline to comment beyond that or to discuss Mr. Jahoda's compensation on the ground that the association's labor problems are being litigated.

The labor problems involve the attempts of Mr. Smith and other workers to unionize the workshop. A little more than a year ago, about two dozen workers met to seek representation from Local 100 of the International Brotherhood of Teamsters.

The blind workers found that Mr. Smith's $1.49 an hour was much higher than some other wages. Bill Vance was getting 58 cents an hour. John Ogden 73 cents, and a dozen others from 97 cents to $1.29. Workers complained at the meeting that there was no retirement plan, no health insurance, no seniority and no notice before the frequent layoffs. "Sometimes they'd go there (to the workshop) in the morning only to be told there was no work for them, so they'd just have to go back home," says one person who attended the meeting.

Their organizing effort was fought by the association. It argued, as do other workshop charities, that its blind workers aren't employes but "clients," whose wages already exceed their productivity. The association said it was paying an average hourly wage of $3.16 to blind and handicapped workers. Blind workers say this figure was highly inflated by the earnings of 20 or so sighted workers without severe handicaps.

UNION WINS ELECTION

Finally, last May, the National Labor Relations Board ordered an election for June 7. The Teamsters won, 44 to 35, despite complants that pro-union workers were laid off just before the election so they couldn't vote but the association still isn't bargaining with the Teamsters, saying it wants to force the issue into court to win a reversal of the NLRB ruling.

In the similar labor dispute at the Chicago Lighthouse for the Blind, where the Communications Workers were defeated in an organizing election, workers did succeed in getting the Lighthouse to install a $2-an-hour minimum wage. But this still doesn't apply to about 25 persons in the Lighthouse's "work activity center."

The Lighthouse's latest IRS filing shows "sales to the public of products assembled in the workshop and other similar activities" running $1.1 million, about $200,000 more than workshop expenses. The Lighthouse, however, says the workshop is running at a loss, and explains that nearly $400,000 in federal grants for training programs was erroneously listed in the "sales" figure.

Lighthouse spokesmen say the workshop paid $461,000 in salary and fringes to 200 blind workers in the year ended June 30—less than the $494,000 in salary and fringes paid to 25 or 30 sighted hourly and administrative employes.

DIRECTOR RESIGNS

Fred McDonald resigned in October as $46,400-a-year (salary and benefits) director of the Lighthouse, to become a consultant for the American Foundation for the Blind and other charities. His Lighthouse job remains open.

The Lighthouse workshop, like those of the Cincinnati Association for the Blind and nearly 100 others, are affiliated with National Industries for the Blind, a nonprofit corporation headquartered in Bloomfield, N.J. NIB was created in 1938 as the active arm of the presidential committee assigned under the blind-workshop law to allocate government contracts. Recently it has spent much energy seeking contracts from private industry, too. It put out a fancy brochure with a full-page color photograph of Walter Mondale exchanging smiles with three officials from the NIB and the President's committee.

To support its administrative machinery, the NIB collects 4 percent on nonmilitary government sales (which total about $61 million a year) and 10 percent on sales to military commissaries (of about $7 million). The military fee is higher, the NIB says, because commissions must be paid on military sales that aren't required on other government sales.

NIB'S STAFF

Many workshops also are affiliated with state industries-for-the-blind organizations, which collect up to 7% of gross sales.

The NIB employs about 60 persons. None are blind. Five executives are retired military officers on pensions. In the year ended June 1977, according to its

best copy available

IRS report, the NIB paid out more than $1 million in salaries and pension contributions for its officers and staff. It also paid out more than $300,000 for "other expenses," including $171,000 for travel, $79,000 for meetings and conventions, $71,000 for telephone and telegraph, $15,000 for dues and subscriptions, $43,000 for office supplies, $175,000 for commissary commissions, $19,000 for board meetings, $25,000 for printing and publications, $30,000 for "consulting and other," and $14,000 for just "other."

The NIB's directors and management also operate one sheltered workshop, Royal Maid Inc., in Hazlehurst, Miss., which took in $6.2 million in sales last year. Of that, the NIB says, $496,000, or 8 percent, went to pay wages to 143 blind workers (only about 100 of whom it says were employed at any given time). According to Royal Maid's tax filings, about the same amount, some $496,714, went to pay nonblind staff (including $10,626 of pension-fund contributions). Another $230,000 went to pay brokerages and commissions; $52,000 to travel; $23,000 to conventions and trade shows; $5,000 to dues and subscriptions; $27,000 to office supplies; $39,000 to telephone and $87,000 to miscellaneous.

TRAINEES ARE UNPAID

Royal Maid says it pays all its workers at least the minimum wage, but it says this doesn't include up to 25 workers undergoing "evaluation" and "training," who receive no wages at all but only maintenance support from the government. Although under the law, this can go on for years, Royal Maid says its workers normally spend only about seven months in evaluation and training.

At the three workshops in Maryland, Blind Industries and Services of Maryland three years ago hired blind members of the National Federation of the Blind to run things. They trimmed administrative costs and began paying everyone the minimum wage or more (up from as little as 51 cents an hour). And the blind workers, some of whom have other handicaps as well, began getting the same pension, vacation, sick-leave, insurance and tax-shelter plans as administrators.

Sales have more than doubled, to $3 million a year, under the new administration. And with additional revenue from vending stands and contributions, the Maryland organization offers counseling, training programs and other services for the blind.

The workshops have been operating at a small loss. Officials predict they will soon break even, but they worry that the shops keep losing business to the sheltered workshops that pay far less to their blind workers.

Royal Maid

quality blind-made products

ROYAL MAID, INC. General Office P. O. Drawer 30, Hazlehurst, Miss. 39083 / 601-894-1771

June 5, 1980

Honorable Edward P. Beard, Chairman
SubCommittee on Labor Standards
Committee on Education and Labor
United States House of Representatives
617 House Office Annex #1
Washington, DC 20515

Dear Congressman Beard:

At the Oversight Hearing held on May 14, 1980, before the SubCommittee on Labor Standards of the Committee on Education and Labor covering Section 14(C) of the Fair Labor Standards Act, testimony for the record was submitted by Mr. Jerry E. Lorenz of Lorenz Housewares, Inc., Newbury Park, California.

Mr. Lorenz's statement was introduced for the record and submitted during the testimony of Congressman Barry M. Goldwater, Jr., of California.

We would appreciate it if you would accept the enclosed statement from our organization in rebuttal to Mr. Lorenz's testimony and accept it as part of the record.

Thank you for your consideration in this matter.

Sincerely,

ROYAL MAID, INC.

John L. Granger

John L. Granger
Executive Vice President

JLG:cr
enc.
cc: Mr. Earl F. Pasbach
Staff Director-Counsel

STATEMENT OF JOHN L. GRANGER, EXECUTIVE VICE PRESIDENT
ROYAL MAID, INC.
IN RESPONSE TO
ALLEGATIONS MADE BY MR. JERRY E. LORENZ
OF LORENZ HOUSEWARES, INC. AT THE
MAY 14, 1980 OVERSIGHT HEARING ON SECTION 14 C
OF THE FAIR LABOR STANDARDS ACT
PRESENTED TO
SUBCOMMITTEE ON LABOR STANDARDS
OF THE
COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES
JUNE 11, 1980

This statement is submitted in order to answer the inaccurate and misleading allegations contained in the statement of Jerry E. Lorenz which was submitted for the record by Congressman Barry M. Goldwater, Jr., before the Subcommittee on Labor Standards at the Oversight Hearing on Section 14 (c) of the Fair Labor Standards Act. In general we are shocked at these statements which are not factual. For many years Royal Maid and workshop members of National Industries for the Blind have been associated with Jerry Lorenz through the National Broom and Mop Council which is the trade association of broom and mop manufacturers. Mr. Lorenz has never brought these allegations to our attention. Mr. Lorenz refers to the general platform set up by Congress for Handicapped workshops. In no instance does the Javits-Wagner-O'Day Act make a statement that workshops are limited to government contracts. Secondly, Section 501(c)(3) of the Internal Revenue Service Code does not state this. Thirdly, we are unaware of any existing legislation restricting workshops from doing business in the private sector. We believe that as we answer Mr. Lorenz's allegations that we will show that he totally misunderstands the operation of workshops and legislation affecting their operation, capitalization and tax-free status.

1. STATEMENT: Mr. Lorenz stated, "Mr. Chairman, I feel the basic problem existing is the fact that the Handicapped Workshops (dba: Royal Maid Company) Hazelhurst, Miss; Mississippi Industries for the Blind; Seattle Lighthouse Industries, Seattle, Wash.) specifically these mentioned blind industries are involving themselves heavily in the broom and mop field in the private sector."

ANSWER: Traditionally, blind industries have been in the business of manufacturing brooms and mops as early as the 1800's. Brooms and mops provide good labor for blind people. Blind people were making brooms and mops long before the Javits-Wagner-O'Day Act or State Use Laws were enacted. All sales of this product in the early years were sold in the private sector. There are fewer workshops today involved in the manufacture of brooms and mops than in the past. For many years the workshops for the Blind have been accepted and welcomed as a part of the National Broom and Mop Council which is the trade association for the manufacturers of these products. The workshops for the Blind are recognized in the association by the fact that a permanent office as Treasurer has been reserved for workshops for the Blind. Neither Royal Maid nor National Industries for the Blind has had a formal complaint from any of the members of the private sighted sector. It is estimated that the total sales of the broom/mop industry through normal retail outlets are approximately 200 million dollars per year at wholesale prices. Royal Maid's sales in this sector this year will be approximately 4 million dollars or 2 percent of the total sales of all companies in the industry. Twenty-two percent of our business is to other manufacturers who sell in the private sector. This 4 million is not totally restricted to brooms and mops, but includes clothesline, plastic items and other products.

For the past several years the percent of brooms and mops sold by Royal Maid to the private sector has decreased as a percentage of Royal Maid's total sales to the point where in fiscal year 1980 sales to the private sector were only 43% of Royal Maid's total sales. Of the 34 workshops making brooms and mops only about 5 or 6 have any semblance of an organized sales program in the private sector. In relation to the total market mentioned, it is inconceivable to suggest that we are having any heavy impact on the commercial industry. It is difficult to understand that sales of this minor size could make any significant impact on a 200 million dollar market.

2. **STATEMENT**: Mr. Lorenz stated, "They have an unfair advantage, and use this against us, in that they do not pay any federal income tax, state income tax, local tax, or property tax." He stated, "In many cases similar to these stated cases, Royal Maid and the other related Handicapped Industries are guilty of several unethical practices......(4) Causing unfair hardships and even contributing to the failure of legitimate manufacturers and distributors whose taxes actually keep the Handicapped Industries in business."

ANSWER: We are serving many blind people who also have other handicaps such as deafness, mental retardation, diabetes, orthopedic impairments, and epilepsy whose production is low. The cost involved in employing these people more than makes up for the tax exempt status we have. These multi-handicapped blind people require additional floor space, extra supervisory personnel, more equipment, and increased overhead. Their wage subsidy paid by Royal Maid is relatively very high and more than compensates for any tax exemption. This being the case and by virtue of the small percent of total amount of volume done by workshops for the Blind it is inconceivable that we could impose undue hardship or contribute to the failure of legitimate manufacturers or distributors in the private sector. One example of unusual expenses is the case of a married couple, both of whom are deaf, blind and mute, who live in the community and work at Royal Maid. These two people function in their home environment and work environment but only because Royal Maid personnel purchase their groceries, clothing, etc., transport them to the doctor; pay all their bills, and take care of many other details non-handicapped people take for granted. Admittedly, this is an extreme situation. However, many of Royal Maid's blind employees require extra services and these extra services do cost money that is not required by industry in the private sector.

3. **STATEMENT**: Mr. Lorenz stated, "They are also supplied with unlimited amounts of capital for the purchase of production equipment by the various states involved."

ANSWER: If this statement were true, Royal Maid would have no problems; however, unfortunately, it is totally false. In states where Rehabilitation for the Blind agencies have available funds they can legally participate with the local workshop in establishment grants. These grants normally are on an 80 percent federal and 20 percent workshop matching ratio for the purpose of establishing and getting the workshop and/or services to the blind (in Royal Maid's case) initiated. Replacement, maintenance, and additional equipment must be paid for 100 percent by the workshop. Unless Mississippi Vocational Rehabilitation for the Blind has additional handicapped workers and the workshop is requested by authorized government rehabilitation agencies to add other programs to employ more people, a workshop would not qualify for another grant. There are no federal grant funding programs available for operating capital. Royal Maid received establishment grants only as described above. One of the reasons Mississippi Vocational Rehabilitation for the Blind has received establishment grants is the fact that Mississippi has the highest incident rate of blindness per capita in the United States. We feel that the statement "unlimited funds" is grossly misleading and founded on fiction.

4. STATEMENT: Mr. Lorens stated, "We have found where these Industries have priced their items below cost."

ANSWER: In the case of Royal Maid, we have a very thorough and complete costing and pricing procedure. This has been checked by our auditors, Peat, Marwick & Mitchell and their report substantiates the correctness of our methods. Our costing includes 100% depreciation and amortization costs of our assets as well as the cost of raw materials, labor, overhead, and other expenses usually associated in a manufacturing business. In other words, our costing has the same elements as any other well managed business in the private sighted sector. It is not a practice of Royal Maid to sell below cost.

5. STATEMENT: Mr. Lorenz states, "It is our understanding that back when Congress set up the platform for the Handicapped Workshops, it was specifically stated in the provisions that they sell only to the federal government and state governments, and not in the private sector market, because of their obvious tax advantages."

ANSWER: This statement is in error. There are no laws that place this restriction on workshops for the blind. Royal Maid's tax exempt status has been thoroughly investigated by the Internal Revenue Service, and it has found Royal Maid to be in full compliance to qualify for a tax exempt status. Likewise, the State of Mississippi recognizes the tax exempt status of Royal Maid, Inc. We have been examined by the Committee for Purchase from the Blind and Other Severely Handicapped which found that Royal Maid, Inc. met all requirements as a workshop for the blind qualified to do business with the government of the United States of America under the terms of the Javits-Wagner-O'Day Act.

6. STATEMENT: Mr. Lorenz stated, "Over the past years, they have been the only supplier of brooms and mops to the federal and state governments."

ANSWER: Like so many other of Mr. Lorenz's statements, this is completely in error. The Federal Prisons Industries (FPI) has priority, under the provisions of Section 4124 of Title 18, United States Code, over workshops for the blind and other severely handicapped in the production of commodities for sale to the Government. This law supercedes the Javits-Wagner-O'Day Act. FPI have first priority on the manufacture and sale of brooms to the government, and a number of other items manufactured by the blind. Requirements of these items that can not be supplied by FPI are available for workshops for the blind, however these requirements have been declining in recent years.

Some states have State Use Laws which on the face gave priority to sales by workshops for the blind to the respective states that have such laws, but in many instances these laws are ignored or honored by their breech more than by their observance

In Mr. Lorenz's home state of California, their State Use Law apparently does not help the blind because no workshop for the blind sells brooms and mops to the State of California. State and local government business is available to the private sector and in fact is being supplied by sighted industry in the private sector.

7. **STATEMENT**: Mr. Lorenz stated, "It is a known fact that Royal Maid salesmen have quoted prices that are not based on their costs."

ANSWER: Royal Maid categorically denies this libelous statement. We have previously stated that Royal Maid has an effective costing system and has a positive policy of making sales in anticipation of a profit.

8. **STATEMENT**: Mr. Lorenz stated, "In the Midwest, the Royal Maid salesman entered into a prospective customer's buying office and told the buyer that he did not care what the buyer was currently paying for brooms and mops. If the buyer would supply him with the current prices he was paying his current supplier, Royal Maid would supply equal items at a permanent ten percent (10%) less.....The end result of this case was that a private sector manufacturer lost this much-needed business because he could not afford to sell all the items to this distributor at cost or below. This incident has happened more than once. Stories like this one are frequent in the circles of my industry."

ANSWER: I think Mr. Lorenz's last sentence identifies this for what it is---a story. Again, we state our prices are based on cost and on the market which we cannot survive in by operating at a loss. The National Broom and Mop Council, who represent this industry has not mentioned such stories exist.

9. **STATEMENT**: Mr. Lorenz stated, "In an analysis of the Blind Workshops management, we find there is a tremendous movement toward automation of the shops."

10. **STATEMENT**: Mr. Lorenz stated that modern and automated systems "exist only in the handicapped workshops, because the private sector market cannot afford the heavy capital expenditures, for the return is too low to justify this type of large capital outlay." He also stated that Royal Maid and the other related Handicapped Industries are guilty of "Providing fewer and fewer jobs to the handicapped in this product category because of expensive automation."

ANSWER: Workshops for the blind in their endeavor to manufacture a broader range of products primarily for sale to the federal government at a fair market price have installed some semi-automatic equipment. In the case of Royal Maid, we feel that reference is made to our injection molding department which primarily is used for molding plastic flatware for the federal government. Our broom and mop departments are not automated perhaps as much as they should be. They are still operated with a great amount of hand labor. We are not knowledgeable of this situation in all factories of the private sector; however, we have been told by some of our knowledgeable friends in the industry that Mr. Lorenz of Lorenz Housewares, Inc., has made a number of trips to Europe to purchase the most modern and automated broom equipment on the market today. Mr. Lorenz and several other manufacturers just recently attended a trade show in Germany and I understand orders were placed for automatic equipment at the show. No blind industry was represented at this show. To state that modern and automated equipment exists only in the handicapped workshops is far fetched and ridiculous. Our broom and mop operation is not heavily automated . We invite on-site inspection of Royal Maid's broom and mop operation and open comparison with private sector broom and mop manufacturers. Unfortunately, Royal Maid, Inc., and most other workshops for the blind do not have the capital to invest in the most modern and efficient equipment. It has been determined, however, that modernization including automation in workshops for the blind actually make more jobs than they eliminate as well as reducing costs as in all cases efficiency is the life-blood of survival in industry.

11. STATEMENT: Mr. Lorenz stated, "There is a movement to produce more product, but not to provide more jobs for the handicapped."

ANSWER: We dispute this. We would ask that Mr. Lorenz prove this allegation. More and more multi-handicapped blind, such as deaf/blind, diabetic/blind, mentally retarded/blind are being provided with work opportunities. The trend is toward serving more people who are more severely handicapped than ever before and this information is available through Mississippi Vocational Rehabilitation. Over fifty percent of Royal Maid's blind employees have one or more handicaps in addition to blindness.

Since jobs in industry are not readily available to blind and almost non-existent to multi-handicapped blind, it behooves management of workshops to have a broad base of employment so that when the government purchases are down, then hopefully sales in the private sector could support the employment of these people. It is practically impossible for blind people to readily obtain jobs in the private sector when layoffs become necessary. In the past 12 months the number of blind persons employed by Royal Maid has increased by approximately 50 percent.

Royal Maid was a sighted on-going business approximately 14 years ago, employing no blind people and since its acquisition as a workshop for the blind has become one of the leading employers of the blind. We feel it appropriate to call this Committee's attention to the hearing before a subcommittee on government operations of the House of Representatives, 92nd Congress, First Session on HR 2310 and related bills regarding amendments to the Wagner-O'Day Act which later became by amendment the Javits-Wagner-O'Day Act. We call to your particular attention pages 225-226, copy which we attach hereto for your convenience.

12. STATEMENT: Mr. Lorenz stated, "The heavy commissions and large consulting fees being paid to people that are not handicapped are the ones benefitting from this. This is being done at the expense of the handicapped and the taxpayers." Mr. Lorenz listed under unethical marketing practices "High price consulting fees paid to salesmen for unsure services along with accepting commissions on sales."

ANSWER: The above statement by Mr. Lorenz is somewhat ambiguous and it is difficult to determine exactly what he means, but in response we make the following statement: We have not paid any heavy commissions and large consulting fees. Commissions are paid to brokers at a nationally accepted

rate. Royal Maid sales and marketing employees are paid on a salary and
incentive bonus basis. This is based on established quotas. Contracted
sales personnel (non-employees of Royal Maid who are brokers and reps) are
paid commissions by Royal Maid based on their sales of Royal Maid products.
By definition these reps and brokers represent many other non-competing
manufacturers.

We do not know what an "unsure servied' is and therefore we cannot respond.

13. **STATEMENT:** Mr. Lorenz stated, "My colleagues and I feel there have
been deals in the Los Angeles area (refer to attached memo) which were
completely unethical. These practices have been carried on by the sales
and marketing staff."

ANSWER: Mr. Lorenz makes the allegation that he and his colleagues feel
there have been "deals" in the Los Angeles area which were completely un-
ethical and that these practices have been carried on by the sales and
marketing staff, presumably of Royal Maid. This statement is completely
false and is insulting to the integrity of Royal Maid, Inc., and its staff.

14. **STATEMENT:** Mr. Lorenz stated, "Trademark Sales, Inc., a manufacturing
rack jobber for several years, had been purchasing plastic brooms and mops
from Royal Maid, Inc., and the salesman for Royal Maid was also handling
sales for Trademark Sales and receiving a commission. Unbeknown to Trade-
mark, Royal Maid was engineering a program where two of Trademark's major
customers would switch and buy direct from Royal Maid. In order to effec-
tively handle this business, Royal Maid has taken on warehouse space lo-
cally. All of this was achieved by major price cutting in order to take
the business from Trademark, who in itself is a very competitive company."

ANSWER: Trademark Sales has been one of Royal Maid's largest accounts.
There has been no account to our knowledge that Royal Maid has taken from
Trademark. Royal Maid and its representative have not engineered any account
from Trademark and certainly could not cut prices below that of its largest
customer. We assume that the salesmen referred to in the allegation is
Royal Maid's contracted sales rep organization, C M Marketing Services.
Royal Maid is aware that C M Marketing Services did represent Trademark
as this was done with our knowledge and agreement. Royal Maid does have
complete confidence in the integrity of C M Marketing Services. Royal
Maid certainly did not take warehouse space in Southern California to
effectively handle Trademark's business. National Industries for the
Blind moved their Military Resale Warehouse to Southern California to
accommodate the Military Resale Sales Program. Royal Maid uses some avail-
able space in the warehouse to ship small customers small orders. In no
way has Royal Maid shipped any of Trademark Sales' customers directly. We
again emphatically deny the statement and feel that were such a statement
to be made it should be backed with proof, or, at least, at a minimum,
some specifics as to what accounts are being referred to, where in the
final analysis this simply has not happened.

15. **STATEMENT:** Mr. Lorens stated that, "The basic underlying problems
seems to be there is no incentive on the manufacturing level for making
a profit. The incentive is to produce more product faster, without re-
gard to cost and so the marketing and sales people can make larger commis-
sions without regard to the original intent of jobs for the handicapped
people.

ANSWER: This statement by Mr. Lorenz is highly speculative, not founded on fact, and defamatory. Royal Maid's only way of serving is to make a profit on its sales and its financial statements reflect that practically all of its operating capital has been generated through the profit method. There must be an incentive to make a profit because Royal Maid must perform just as other private industries. We must be able to buy raw materials, manufacture, sell, collect, pay wage subsidies, pay our bills. We must be able to replace equipment, maintain our property, pay wages and fringes. Without making a profit we could not do this and stay in business. There are no owners and stockholders to share in any profit and all profits are retained for the operation of the company. In addition to paying regular wages, we must provide extra services such as wage subsidies, etc. The original and present purpose of workshops for the blind is to provide employment for blind people.

16. STATEMENT: Mr. Lorenz stated: "The end result is that the handicapped workshops are stealing from the hands that provide, for it is the taxes that the private sector industry pays that helps provide for the existence of the workshops."

ANSWER: We have had numerous audits. This statement of Mr. Lorenz can be disproved by the many federal and state audits, affirmative action programs, Department of Labor and NIB audits along with frequent monitoring by Mississippi Vocational Rehabilitation for the Blind. Through the efforts of workshops for the blind, blind people who are deprived the opportunity of becoming self-supporting and tax-paying individuals by private industry are given an opportunity to become involved in production and are becoming tax-paying citizens contributing to society rather than taking from society. If Mr. Lorenz has any knowledge of any stealing at Royal Maid, he is derelict not to report the same to the district attorney in the district in which Royal Maid is located.

17. STATEMENT: Mr. Lorenz stated, "Economic facts relating to their operating...........4: Below minimum pay wage scales for production personnel".

ANSWER: At Royal Maid no blind person who is capable of earning above 80% of manufacturing standard is paid less than the statutory minimum wage. All wage rates are based on minimum wage or above. Many workers earn considerably more than minimum wage. Only a few workers who are severely multi-handicapped have special certificates issued by the Department of Labor based on their ability to produce. Several of these severely multi-handicapped blind are unable to live in the community and reside in a group living facility. There are some, more severely handicapped than these, who are required to live in an institution where we carry the work to them at added cost.

18. STATEMENT: Mr. Lorenz listed the following under Complaints: "Selling accounts on an OEM basis and then coming into the territory and taking the account's customers direct, by cutting the prices."

ANSWER: Twenty-two percent of Royal Maid's private sector business is to other manufacturers of brooms and mops (OEM - Original Equipment Manufacturers). It is not the policy of Royal Maid to take OEM customer's accounts by cutting prices or by any other unethical manner. It is illogical to presume that Royal Maid's OEM customers would continue to do business with Royal Maid if this allegation were true.

19. **STATEMENT:** Mr. Lorenz stated, "To this date, in the broom and mop category, the Handicapped Industries still have a monopoly on Federal and Government orders and the private sector manufacturers have been kept away from this business."

ANSWER: As stated in the answer to Statement 6, the Federal Prisons Industries have a Law that supercedes the Javits-Wagner-O'Day Act. The Federal Prisons Industries have first priority on brooms, and a number of other items manufactured by the blind so this statement is obviously in error.

20. **STATEMENT:** Mr. Lorenz stated, "The Royal Maid Division has been steadily enlarged and automated strictly to compete in the open market.

ANSWER: Royal Maid is non-automated in the broom and mop manufacturing departments. The purpose of Royal Maid is not to enlarge or automate just to compete in the open market. The purpose of Royal Maid is to evaluate, train, and employ blind people. All expansion and equipping done at Royal Maid is done to accommodate the blind people in our state who need the services provided by Royal Maid and to manufacture components to be distributed to workshops throughout the United States to provide much needed employment for blind people in many states. In addition to the foregoing, Royal Maid has been developed as a demonstration workshop for the blind and does some production research work, does research and development of rehabilitation equipment for the blind, serves as a model to other workshops and conducts workshop management training programs for workshops throughout the country that are associated with National Industries for the Blind. In addition, Royal Maid has also been made available to students from various universities in connection with their classes in humanities as well as furnishing consulting services to representatives from the people in work for the blind in various foreign countries in cooperation with the U. S. State Department and with HEW. Royal Maid's private sector business has shown a steady decrease as a percentage of our total business; as follows:

1967 - 100%
1975 - 58%
1980 - 43%

CLOSING SUMMARY: We cannot comprehend why Mr. Lorenz made his accusations and misleading statements. To keep the best interest of the blind in the forefront, we believe that if his requests were honored the eventuality would be that the now productive tax-paying blind citizens throughout the nation would become unemployed tax recipients through welfare and other social programs. This would thrust these people who have worked so hard to become self-sufficient, first class citizens back to a demeaning and useless state, thus wasting time and tax payers' dollars over at least 42 years. We feel this would be a travesty of both the letter and spirit of the original enacting legislation and would be a devastating blow to blind, productive citizens. Responsible organizations of the blind such as Mississippi Council of the Blind, the Royal Maid Advisory Committee and the Hazlehurst Chapter of the Mississippi Council of the Blind have expressed much concern since hearing of this complaint by Mr. Lorenz. Statements from these organizations are attached.

US Treasury Department

Internal Revenue Service
Washington, DC 20224

Date: JAN 23 1970
In reply refer to: T:MS:EO:R:3-JC

Modglin-Maid, Inc.
P. O. Drawer 30
Hazelhurst, Mississippi 39083

Gentlemen:

Based on information supplied, we rule that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. This ruling assumes your operations will be as stated in your exemption application.

In this letter we are not determining whether you are a private foundation as defined in new section 509(a) of the Code. Your attention is invited to new section 508(b) of the Code which sets forth requirements for establishing that an organization exempt under section 501(c)(3) is not a private foundation. When procedures are developed to implement these new requirements, we will advise you how to proceed to notify the Internal Revenue Service if you do not believe yourself to be a private foundation.

For years beginning prior to January 1, 1970, you are required to file the annual information return, Form 990-A. For each subsequent year, please refer to the instructions accompanying the Form 990-A for that particular year to determine whether you are required to file. If filing is required, you must file the Form 990-A by the 15th day of the fifth month after the end of your accounting period, which ends on June 30.

You are not required to file Federal income tax returns unless you are subject to the tax on unrelated business income under section 511 of the Code. If you are subject to this tax, you must file an income tax return on Form 990-T. In this letter, we are not determining whether any of your present or proposed activities is unrelated trade or business as defined in section 513 of the Code.

RECEIVED
JAN 27 1970

You are not liable for Federal unemployment taxes. You are liable for social security taxes only if you have filed waiver of exemption certificates as provided in the Federal Insurance Contributions Act. (Your District Director will be glad to tell you more about the latter point).

Donors may deduct contributions to you, as provided by section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes under sections 2055, 2106, and 2522 of the Code.

If you change your purposes, character, or method of operation, please let your District Director know, so that he may consider the effect on your exempt status. Also, please keep him informed of any changes in your name or address.

We are informing your District Director, Jackson, Mississippi, of this ruling.

Thank you for your cooperation.

Very truly yours,

John R. Barber

Chief, Rulings Section
Exempt Organizations Branch

RECEIVED
JAN 27 1970

AND MILES TO GO . . .

Within the last decade the workshop for the blind program and National Industries for the Blind have undergone a tremendous expansion. The workshops have taken their place in modern American industry and have achieved wide acceptance from both the public and the government.

Workshop management today is looking to the future—to new products, new methods, better quality control and greater sales. Sophisticated marketing concepts are a part of management's concern, as are employee and community relations. How surprised the early workshop directors would be at the great plans for the future! And the potential of workshops for the blind has just begun to be tapped.

Where once brooms and mops were supplied to the government, the shops now produce a wide variety of products—from mattresses and box springs to automobile seat belts. Where once equipment that blind workers used was limited to simple hand tools, today the blind employees handle power tools and precision instruments.

The success of the government program has led to a related success in the field of commercial sales of blind-made products, and to plans for even larger sales growth in the next few years. The Skilcraft trademark, the sign of quality blind-made products manufactured by NIB associated shops, has undergone a radical facelifting and has been introduced to the public with good results.

All of this progress, and the future that lies ahead for

From: Hearings before a Subcommittee of the Committee on Government Operations, House of Representatives 92nd Congress, H.R. 2310 to amend the Wagner-O-Day Act to extend the provisions thereof to Severely Handicapped Individuals who are not blind, and for other purposes.

the workshop program, were not foreseen by many of the early supporters of the Wagner-O'Day Act. I cannot help but believe, however, that one man—C. C. Kleber, NIB's General Manager—did envision great accomplishments for the workshops and NIB. Mr. Kleber passed away in the fall of 1960. His death was a loss to everyone in the workshop movement.

Mr. Kleber was succeeded by Robert C. Goodpasture, who has led NIB and the associated shops to even greater growth in a very few years.

Each day brings new challenges and new avenues to explore. We continue to seek full industrial employment for all blind persons in the nation who want to work. To paraphrase the poet, Robert Frost:

"We have promises to keep,
'And miles to go before we sleep."

From: Hearings before a Subcommittee of the Committee on Government Operations, House of Representatives 92nd Congress, H.R. 2310 to amend the Wagner-O-Day Act to extend the provisions thereof to Severely Handicapped Individuals who are not blind, and for other purposes.

MISSISSIPPI COUNCIL OF THE BLIND

"Improving Today for Tomorrow"

RESOLUTION

BE IT RESOLVED that the elected Board of the Mississippi Council of the Blind do hereby issue a statement of support for sheltered workshops for the blind and specifically for Royal Maid, Inc., and Mississippi Industries for the Blind.

AND BE IT RESOLVED that our organization, being well informed on both of the State of Mississippi sheltered workshops, finds that the accusations set forth in Mr. Jerry E. Lorenz's complaint are totally false.

AND WHEREAS the Mississippi Council of the Blind governing board would like to answer specifically the "unfair competition" statement by reminding all people that the blind person begins in competition "unfairly". Because a sheltered workshop offers the opportunity for a blind person to become self-sustaining, it would seem to this organization that the workshop is entitled to any lawful means to help these individuals.

AND WHEREAS the Mississippi Council of the Blind has been assured by the administration of both Royal Maid, Inc., and Mississippi Industries for the Blind that they are open to investigation by any state or federal department and are investigated periodically by both state and federal departments. And if there were any unscrupulous persons or actions within either of the state sheltered workshops, these investigations would bring it to light.

AND WHEREAS if any supportive program is initiated within a sheltered workshop which enables a visually impaired person to become rehabilitated, this organization does support any legal means of receiving state or federal benefits in rehabilitating these individuals.

SO BE IT RESOLVED that the elected Board of the Mississippi Council of the Blind on June 3, 1980, does unanimously vote to support all lawful actions of sheltered workshops for the blind and specifically Royal Maid, Inc., and Mississippi Industries for the Blind.

APPROVED this the 3rd day of June , 1980.

C. Morris Ward
C. MORRIS WARD, President of
Mississippi Council of the Blind

Bonnie Masterson
BONNIE MASTERSON, Chm.,Legislative Committee,
Mississippi Council of the Blind

MISSISSIPPI COUNCIL OF THE BLIND
HAZLEHURST CHAPTER
Affiliated with the American Council of the Blind

June 3, 1980

To Whom It May Concern:

The Hazlehurst Chapter of the American Council of the Blind would like to submit a statement of concern regarding the charges brought by Mr. Jerry E. Lorenz of Lorenz Housewares, Newbury Park, California, against Royal Maid, Inc., Workshop for the Blind.

The Hazlehurst Chapter is made up of blind people and interested sighted people. Members are thankful and appreciative that an opportunity is being afforded to visually impaired people in our community so they might become independent.

The law under which the workshops for the blind operate specifies that some tax exemption can be used in order to prepare blind and multi-handicapped blind individuals to gain self respect by supporting themselves in a monetary fashion. These tax exemptions, by allowing blind people to be productive and earning individuals, have at the same time allowed blind people to become tax-paying citizens which has offset all or part of the money supposedly lost through the tax exempt status. This makes blind people contributors to the elevation of the civic and political areas in which they live and affords them the opportunity to live a more normal life.

Mr. Lorenze neglected, when he was a part of a tax exempt church, to bring up the question of an organization being tax exempt. Now that he is no longer producing goods under the shelter of the church, he wants to do away with any advantages that, by law and tradition, our society has given to qualified organizations such as workshops for the blind.

In our opinion, it would seem that this is a totally individual, selfish action that has been taken by Mr. Lorenz.

We, as members of this organization of the blind, are thankful to God and our national leaders for making it possible for us to feel like whole individuals.

Sincerely,

Mississippi Council of the Blind
Hazlehurst Chapter

Arthur Sykes
Arthur Sykes
Board Member

Gary Prestridge
Gary Prestridge
Board Member

Diane Geren
Diane Geren
Board Member

Dorothy Swinney
Dorothy Swinney
Vice-President

Garland Lee
Garland Lee
President

Barbara Freeman
Barbara Freeman
Secretary-Treasurer

/js

ROYAL MAID, INC.
EMPLOYEE ADVISORY COMMITTEE

June 3, 1980

To Whom It May Concern:

We, as a group of blind individuals duly elected by our fellow blind workers to represent blind employees with the management of Royal Maid, take issue with the allegations Mr. Lorenz has made concerning exploitation of blind people by workshops, especially Royal Maid.

History tells us that workshops were created to meet the employment needs of blind people because work opportunities did not exist for the blind within the sighted sector. Granted, there were some very poor conditions within the early "sweat shops" as they are sometimes referred to, but we have come a long way since those days and now enjoy a very modern and pleasant work environment where we are truly first class individuals capable of supporting ourselves and of being contributing citizens.

Despite federal legislations such as Affirmative Action, blind people still do not have free access to employment within sighted, normal competitive industry. This fact does not seem to worry those people who cry out to close workshops. Where do they suggest we go if we are to remain self-sufficient, tax-paying citizens? Are they condemning us to become second class, welfare-dependent burdens on the state and federal dollar?

We urge those who read this letter to consider the very positive and beneficial aspects of workshops, rather than to hurriedly jump onto some bandwagon which seems to have some immediate public and political attractiveness, without first seeking the true facts of the matter.

Mr. Lorenz further alledges that we should not be allowed to compete with the sighted industries who, so far, have not been willing to allow us employment opportunities with their ranks. To work means to sell, which means competition must be involved. Workshops have given blind people an opportunity to prove that they can produce high quality, competitive products which compare very favorably with the products of sighted industry. Is Mr. Lorenz afraid of our competition, or does he wish to have blind people again relegated to some safe welfare role where we would not be a threat?

In our opinion, workshops are vital and effective in meeting our needs as blind people, to be self-supporting members of society. We are increasingly alarmed by the efforts currently being made to discredit and eliminate these workshops and welcome your examination of the programs so that you will see, as we do, the positive benefits provided by these work programs.

Sincerely,

Royal Maid Advisory Committee

Toby Hite
Past Chairman

Robert Thomas
Robert Thomas
Past Chairman

Charles Magee
Charles Magee
Past Chairman

Dorothy E. Swinney
Dorothy Swinney
Past Chairman

X Dan Capen
Dan Capen, Chairman

Danny Anderson
Danny Anderson, Member

Jessie Ramsey
Jessie Ramsey, Member

Donald R Sills
Donald Sills, Member

Stella Mae Threadgill
Stella Threadgill, Member

Williams
Benny Jack Williams, Member

Charles Williams
Charles Williams, Member

/js

(1st-990)

National Industries for the Blind
LEGISLATIVE AFFAIRS DIVISION
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Executive Vice President

May 23, 1980

The Honorable Edward P. Beard
Chairman
Subcommittee on Labor Standards
Committee on Education and Labor
617 House Office Annex #1
Washington, D. C. 20515

Dear Mr. Beard:

At the Oversight Hearing on Section 14(c) of the Fair Labor Standards Act held by your Subcommittee on May 14, 1980, Representative Barry M. Goldwater, Jr. introduced for the record a statement by Mr. Jerry E. Lorenz which contained the Wall Street Journal Articles of January 24 and 25, 1979.

We at National Industries for the Blind (NIB) do not believe these articles are pertinent to this Hearing. In fact, much of the information is distorted, and other important facts omitted and therefore they do not present to any degree an accurate and comprehensive picture of workshops for the blind and their operation.

However, since they have been introduced and will appear in the official record, [redacted] the NIB position on these two Wall Street Journal Articles.

I am enclosing our analysis of the Wall Street Journal Articles January 24, 1979 and January 25, 1979 and request this be included in the official record of these Hearings.

We appreciate this opportunity to add this additional information.

Sincerely,

John W. Hanger

John W. Hanger
Vice President
Legislative Affairs

JWH:rhw

ANALYSIS OF 'WALL STREET JOURNAL' ARTICLES

JANUARY 24, 1979, JANUARY 25, 1979

Wall Street Journal Statement: In headlines the Journal refers to sheltered workshops as "charity workrooms".

FACT: THESE ARE NOT CHARITY WORKROOMS BUT SPECIAL WORKSHOPS WITH SELF-HELP PROGRAMS.

Wall Street Journal Statement: Headlines insinuate "Benefit for G.E., P & G, AT & T" as subcontractors due to substandard wages in blind workshops.

FACT: THERE IS NO INDICATION THAT INDUSTRY PROFITS FROM SUBCONTRACTS WITH THE WORKSHOPS FOR THE BLIND ANY MORE THAN IT DOES FROM ITS SUBCONTRACTS WITH TENS OF THOUSANDS FROM "OTHER SMALL BUSINESS". MOST INDUSTRY PROBABLY LETS ITS SUBCONTRACTS TO THE "LOW BIDDER" WHICH MAY BE A WORKSHOP FOR THE BLIND OR A WORKSHOP FOR OTHER SEVERELY HANDICAPPED.

Wall Street Journal Statement: "Operating under a 1938 law that excludes them from the wage and hour regulations are well over 100 workshops around the country that employ at least 6,000 blind workers to produce, assemble or package various products.

FACT: ALL WORKSHOPS ARE GOVERNED AND MONITORED BY THE WAGE AND HOUR DIVISION OF THE DEPARTMENT OF LABOR.

Wall Street Journal Statement: "Administrators of the workshops, by contrast, often receive salaries in the $50,000 range, with substantial benefits."

FACT: RECORDS CLEARLY SHOW THERE ARE NO WORKSHOP MANAGERS OR ADMINISTRATORS WHOSE SOLE RESPONSIBILITY IS THE MANAGEMENT OR ADMINISTRATION OF A WORKSHOP EARNING SALARIES IN THE $50,000 RANGE. THERE MAY BE, HOWEVER, SOME MULTI-FUNCTION, MULTI-SERVICE AGENCY ADMINISTRATORS EARNING SALARIES IN THAT RANGE.

Wall Street Journal Statement: "They (workshop administrators) say that the blind are paid less than workers elsewhere because they produce less and that in any case most blind workers receive other benefits through Social Security payments and tax exemptions."

FACT: IN NO CASE ARE WAGE RATES OR EARNINGS GOVERNED BY WHETHER OR NOT A BLIND PERSON RECEIVES OTHER BENEFITS INCLUDING SOCIAL SECURITY PAYMENTS, TAX EXEMPTIONS OR SUPPLEMENTAL SECURITY INCOME.

Wall Street Journal Statement: "The big companies that use the workshops' services are pleased with the relationship. The arrangement is profitable for them and they receive credit for affirmative action in helping the handicapped as part of the bargain."

FACT: THERE IS NOTHING IN THE LAW WHICH WILL ALLOW INDUSTRY TO TAKE CREDIT FOR AFFIRMATIVE ACTION BY PROVIDING SUBCONTRACT WORK TO THE WORKSHOPS. SUCH COOPERATION ON THE PART OF INDUSTRY ONLY COMPLEMENTS THAT INDUSTRY'S AFFIRMATIVE ACTION POLICY OF HIRING WORKERS WITH HANDICAPS.

Wall Street Journal Statement: "People had to stand in puddles to work because the roof leaked," Mr. Caldwell says. "We had to wear coats because it was cold. Half the toilets didn't work. There was no running water for awhile. We had rats, waterbugs."

FACT: THOROUGH INVESTIGATION REVEALS THAT ANY SUCH CONDITIONS WHICH MIGHT HAVE OCCURRED TO ANY DEGREE DID SO IN A BUILDING SEPARATED FROM THE CHICAGO LIGHTHOUSE PRODUCTION AREA. THIS SEPARATE BUILDING WAS USED ONLY FOR SUBCONTRACT WORK FOR A SPECIFIC COMPANY AND AS THE JOURNAL STATES, THESE CONDITIONS NO LONGER EXIST. AT NO TIME WERE THESE SEPARATE FACILITIES USED FOR ANY PRODUCTION ON U.S. GOVERNMENT CONTRACTS.

Wall Street Journal Statement: "The Association (Office Products Manufacturers Association) says its member companies pay out about 23% of sales revenues as salaries to production workers... Documents show, by comparision, that competing sheltered workshops pay out about 10% of revenues for production labor."

FACT: RESEARCH FOR LAST YEAR INDICATES BENEFITS OF OVER 20% OF SALES WERE PAID BY WORKSHOPS FOR THE BLIND AS BENEFITS TO THE BLIND AND OTHER SEVERELY HANDICAPPED EMPLOYED IN THOSE WORKSHOPS FOR THE BLIND. THIS FIGURE DOES NOT INCLUDE PRODUCTION WAGES PAID TO SIGHTED, NON-HANDICAPPED EMPLOYES. THE WAGNER-O'DAY ACT AUTHORIZES EMPLOYMENT OF 25% NON-HANDICAPPED WORKERS IN DIRECT LABOR ON GOVERNMENT CONTRACTS.

Wall Street Journal Statement: "It's a rip-off of the blind, says Michael Goodman, lawyer for the office supply association (Office Products Manufacturers Association). "The blind workshops aren't supplying a decent wage, and they aren't training people to work in private industry."

Fact: All workshop wage rates are governed and monitored by the Wage and Hour Division of the Department of Labor. Furthermore, all workshops must maintain either their own placement program or an on-going placement program with other agencies in the community. In the last six years NIB associated workshops have placed well over 2,000 blind people in competitive employment.

Wall Street Journal Statement: "The workshops do have an aura of respect. They operate under the aegis of a committee appointed by the President of the U.S. composed of private citizens and representatives of government agencies that buy the workshops' services. (Federal and state agencies, required by law to give special purchasing consideratiions to the sheltered workshops' service, account for about half of the workshops' business).

Executive director of the presidential committee is Charles W. Fletcher, a retired Army general, who contends that most of the workshops are doing a good job. "There may be one or two places where blind workers aren't getting as much as they should," he concedes, but he adds that in any case, his committee doesn't have authority to regulate the workshops.

Fact: The Committee appointed by the President of the United States to monitor and oversee the operations of National Industries for the Blind and workshops for the blind has nothing to do with any state programs or state agencies. Their involvement is completely on a federal level. The authority of the Committee for Purchase from the Blind and Other Severely Handicapped is limited to regulating the procurement of commodities and services from workshops in support of the federal procurement program but not over the individual state programs.

This involves a process of workshop qualification and determination of fair market prices but does not include authority to regulate the pay of workers in the workshops for the blind. This authority (The regulation of wages to blind workers) is vested with the Wage and Hour Division of the Department of Labor.

Wall Street Journal Statement: "The National Federation of the Blind, a Baltimore-based organization, which argues that sheltered workshops should be phased out and replaced with training in cane travel, Braille, and other skills for placement of blind in private industry."

Fact: The National Federation of the Blind while talking about phasing out the sheltered workshops offers no alternative employment possibilities for multihandicapped blind persons. Replacing the workshops with training in cane travel, braille, and other skills for the placement of the blind in private industry leaves no opportunity for blind persons to have employment who are not capable of placement in private industry. Phasing out special workshops for the blind would eliminate literally thousands of job opportunities for multihandicapped blind people.

Wall Street Journal Statement: "It ("the law") also allows the shops to maintain "work activity centers", where workers can be kept for years in so-called training programs and paid mere carfare."

Fact: It is illegal to keep blind people in "training programs" for "years". In addition, it is illegal to pay anything but commensurate wage or prevailing wage in a work activities center. These regulations are administered by the Wage and Hour Division of the Department of Labor.

Wall Street Journal Statement: "To support its administrative machinery, theNIB collects 4% on nonmilitary government sales (which total about $61 million a year) and 10% on sales to military commissaries (of about $7 million). The military fee is higher, the NIB says, because commissions must be paid on military sales that aren't required on other government sales."

FACT: NIB IS AUTHORIZED TO RECEIVE A 4% CONTRIBUTION ON ALL FEDERAL CONTRACTS FOR COMMODITIES AND SERVICES SOLD BY ASSOCIATED WORKSHOPS TO THE FEDERAL GOVERNMENT FOR CONSUMPTION BY GOVERNMENT AGENCIES. THE MILITARY RESALE PROGRAM AS DIFFERENTIATED FROM GOVERNMENT USE SALES ALLOWS FOR PRODUCTS MANUFACTURED BY BLIND WORKERS TO BE DISTRIBUTED AND SOLD THROUGH MILITARY COMMISSARIES AND EXCHANGES TO THE MILITARY CONSUMER. ALONG WITH THE 4% CONTRIBUTION NIB IS AUTHORIZED TO RECEIVE AN ADDITIONAL 6% TO COMPENSATE FOR THE COST OF SALES SERVICES AND DISPLAY EQUIPMENT PROVIDED THE MILITARY STORES BY NIB.

Wall Street Journal Statement: "Many workshops also are affiliated with state industries for the blind organizations, which collect up to 7% of gross sales."

FACT: THIS STATE USE PROGRAM AS COMMONLY REFERRED TO HAS NO INTERFACE WHATSOEVER WITH THE FEDERAL GOVERNMENT PROCUREMENT PROGRAM AS GOVERNED BY PUBLIC LAW 92-28 JAVITS-WAGNER O'DAY ACT. THERE ARE SEVERAL STATE USE PROGRAM WHEREIN CONTRIBUTIONS VARY PERCENTILE WISE AND THESE CONTRIBUTIONS TO THE INDIVIDUAL STATE PROGRAMS ARE RESTRICTED TO PRODUCTS MANUFACTURED BY SPECIFIC WORKSHOPS FOR CONSUMPTION BY AGENCIES OF THE RESPECTIVE STATES.

Wall Street Journal Statement: "Royal Maid says it pays all its workers at least the minimum wage, but it says this doesn't include up to 25 workers undergoing "evaluation" and training" who receive no wages at all but only maintenance support from the government. Although under this law, this can go on for years, Royal Maid says its workers normally spend only about seven months in evaluation and training."

FACT: OF THE UP TO 25 TRAINEES CLAIMED IN THE TRAINING PROGRAM AT ROYAL MAID THERE ARE APPROXIMATELY FOUR TO FIVE IN AN EVALUATION PROGRAM WHO DO NOT RECEIVE PAY BUT ARE NOT WORKING ON COVERED WORK WHO DO RECEIVE MAINTENANCE, TRANSPORTATION COSTS, ROOM AND BOARD AND INCIDENTIALS FROM THE STATE VOCATIONAL REHABILITATION AGENCY. THERE ARE ADDITIONAL TRAINEES WHO DO RECEIVE PAY FOR ALL WORK PERFORMED. ALL TRAINEES IN A TRAINING PROGRAM HAVE A DEFINITE PLAN FOR TRAINING TIME SET UP FOR THEM FROM ONE TO SEVEN MONTHS, AND THIS MUST BE FOLLOWED. IT DOES NOT AND CANNOT GO ON FOR YEARS.

WALL STREET JOURNAL ARTICLE - JANUARY 25, 1979

Wall Street Journal Statement: "The Industrial Home seems typical of the more than 100 sheltered workshops for the blind around the country, though a bit bigger than most. And George T. seems typical of the 6,000 or more blind workers."

FACT: INDUSTRIAL HOME FOR THE BLIND IS NOT A WORKSHOP PER SE. IT IS A MULTI-SERVICE AGENCY AND THIER WORKSHOP IS ONE OF THE 28 SERVICES WHICY THEY PROVIDE TO BLIND PEOPLE. AS AN AGENCY IT MAY BE TYPICAL OF AGENCIES ASSOCIATED WITH NIB WHO SERVE APPROXIMATELY 43,000 BLIND PEOPLE IN A MYRIAD OF SERVICES INCLUDING A WORKSHOP SERVICE. IT IS IMPOSSIBLE TO CONSIDER GEORGE T. AS TYPICAL OF THE 6,000 OR MORE BLIND WORKERS. EACH PERSON IS AN INDIVIDUAL UNTO HIMSELF AND IN OUR PROGRAMS IS TREATED AS SUCH.

Wall Street Journal Statement: "Both the Jewish Guild and The Industrial Home, like many other sheltered workshops, have more sighted workers than the 25% allowed by law."

FACT: THE WAGNER-O'DAY ACT, PUBLIC LAW 92-28, REQUIRES A MINIMUM RATIO OF 75% BLIND AND 25% SIGHTED IN DIRECT LABOR. EVERY WORKSHOP FOR THE BLIND ASSOCIATED WITH NIB ANNUALLY CERTIFIES COMPLIANCE WITH THAT STIPULATION OF THE LAW. THIS LAW DOES NOT APPLY TO INDIRECT LABOR BUT SPECIFICALLY TO DIRECT LABOR.

Wall Street Journal Statement: "Another official, referring to some work activity center employees who were both blind and mentally retarded, but who were fitting small plumbing parts together, said the Home was paying them in beads and pocket combs rather than augmenting their 40¢ an hour salary. "The money doesn't mean very much," the official said. "What is important is to win a prize."

FACT: GREATER NUMBERS OF SEVERELY MENTALLY RETARDED BLIND PERSONS ARE BEING DEINSTITUTIONALIZED AND PROVIDED WITH EMPLOYMENT IN WORK ACTIVITIES CENTERS AND THE SPECIAL WORKSHOPS FOR THE BLIND. IN ORDER TO SERVE THE SEVERELY LIMITED PEOPLE, BEHAVIOR MODIFICATION TECHNIQUES EMPLOYED FOR YEARS WITH THE MENTALLY RETARDED ARE BEING USED. THIS IS BECAUSE THERE ARE MANY MENTALLY RETARDED WHO CANNOT CONNECT THE WORK THAT THEY ARE DOING WITH THEIR PAYCHECK AT THE END OF THE WEEK. THEREFORE, THEY ARE PROVIDED WITH AWARDS AS THEY COMPLETE A PRODUCT SO THAT THEY CAN BEGIN TO LEARN THAT PRODUCTION MEANS REWARD. THIS IS IN ADDITION TO BEING PAID FOR THE WORK THAT THEY PRODUCE.

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2/8/79

Charles W. Fletcher, Executive Director, Committee for Purchase From the Blind and Other Severely Handicapped

NAMES OF ITEMS ON PROCUREMENT LIST

COMMODITIES

- Adapter, Battery Terminal
- Ammonia Inhalant Solution
- Ammunition Magazine Pockets
- Aprons: Construction Worker
    - Food Handling
- Archboard Files
- Ash Receiver
- Bags: Barracks
    - Cloth
    - Cotton
    - Duffel
    - Firefighter's Sleeping
    - Flyer's Kit
    - Laundry
    - Lunch
    - Motion Sickness
    - Soiled Clothes
    - Soiled Clothes, Submarine
    - Tool
- Ballpoint Pens
- Ballpoint Pen w/Imprinting
- Band, Helmet, Camouflage
- Bedspreads
- Bedsprings
- Belts: Auto
    - Individual Equipment
    - M.P.
    - Trousers
- Binders: Awards Certificate
    - Looseleaf
    - Note Pad
    - Presentation Style
- Blackboards
- Block, Currency Packing
- Board, Wall Calendar
- Bookcases, Wood
- Bookends
- Box: Filing
    - Dental Mailing
    - Tool
    - Wood
- Brooms: Push
    - Upright
    - Whisk
- Brushes: Chassis & Running Gear
    - Cleaning, Aircraft
    - Dusting
    - Floor Sweeping
    - Sanitary
    - Scrub
    - Shoe and Stove
    - Wire Scratch
- Brush, Wire, Stainless Steel
- Brush Set, Shoe and Stove
- Bulletin Boards
- Cable Assemblies
- Calendar Pads
- Caps: Compressed Gas Cylinder
    - Food Handler's
    - Operating Surgical
- Card, Guide, File
- Card Set, Guide, File
- Carrier Intrenching Tool
- Case: Carrying
    - Ear Plug
    - Field, First Aid
    - Flag, Interment
    - Maintenance & Operating
    - Maint, Equip, Small Arms
    - Spectacles
- Catheters, Male, External
- Circuit Card Assemblies
- Clipboard Files
- Clipboard, Pilot's
- Cloth, Polishing
- Clothes Stop
- Clothing, Operating Room
- Club, Policeman's
- Condiment Packets
- Condiment Packet, Dietetic
- Costumer, Wood
- Covers: Footwear
    - Helmet
    - Ironing Board
    - Litter
    - Mattress
    - Service Cap
    - Typewriter
    - Water Canteen
    - Water Canteen, Nylon

- Creeper, Mechanic's
- Curtain, Shower
- Cushion Assembly, Seat Back
- Decalcomania
- Desk Tray
- Detergent, General Purpose
- Dining Packets
- Dining Packets, Inflight
- Dishwashing Compound
- Disinfectant, Detergents
- Drapes, Surgical
- Dress, Operating
- Easel, Display & Training
- Eraser, Mechanical
- Fencing, Wire & Wood Picket
- File Backer, Paper
- Flags, Signal
- Flashlights
- Flatware, Plastic
- Flatware Set, Plastic
- Folder, File
- Folder Set, File
- Food Packets, Surv, Aircraft
- Glass Cleaner
- Gown, Hospital
- Gown, Operating, Surgical
- Hand Truck
- Handles: Mop
  - Paint Roller
  - Wood
- Havelock
- Headband, Helmet
- Holder, Desk Memorandum
- Hood: Sleeping Bag
  - Spray Painter's
- Iodine Ampoules
- Kit: Sewing
  - Shaving
  - Sampling, Spectrometric
  - Spectro, Oil Analysis
- Lantern, Head
- Lanyard, Pistol
- Lights: Desk
  - Marker, Distress
- Markers, Tube Type
- Mats, Floor
- Mattress: Cotton-Felt
  - Foam
  - Innerspring
  - Plastic-Coated
- Message Dropper
- Micro Bleeder
- Mirrors
- Mop, Dusting, Cotton
- Mop, Wet
- Mop, Wet, Cellulose
- Mophead, Dusting, Cotton
- Mophead, Wet
- Neckband, Helmet Liner
- Neckerchief
- Necklace, I.D.
- Neckties
- Net, Laundry
- Notebook, Stenographer's
- Pads: Bakery
  - Examining Table
  - Hospital Stretcher
  - Mattress
  - Scouring
  - Typewriter
  - Writing Paper
- Pallet, Material Handling
- Pallet, Wood
- Paper Clip
- Paper: Looseleaf, Blank
  - Looseleaf, Ruled
  - Teletypewriter
  - Writing
- Paper Trimmer
- Pen Set, Desk
- Pencils: Lead
  - Mechanical
- Pennants, Signal
- Perforator, Paper
- Picture Frames
- Pillows: Bed
  - Passenger Headrest
- Pillowcases
- Pillowcase, Disposable
- Pin, Tent: Aluminum
  - Wood
- Plate, Marking, Blank
- Pole Section, Tent
- Portfolios
- Protectors: Hospital Bed Mattress
  - Hospital Bed Pillow
  - Trousers, Pistol Holster
- Refill: Appointment Book
  - Ballpoint Pen
  - List Finder

Rinse Additive, Dishwashing
Robe, Nomex
Safety Guard
Scabbard, Bayonet-Knife
Scraper and Squeegee
Screwdrivers
Shirt, Operating
Sign, No Trespassing
Sign Kit, Vehicle
Skid, Wood
Slide Fastener Units
Sling, Adjustable
Smock, Dental Operating
Soap, Toilet
Spoon, Picnic, Plastic
Sponges, Cellulose
Squeegee
Stakes, Wood
Stand, Calendar Pad
Stepladders
Straps: Cargo Tie Down
    Chin
    Helmet
    Mail Carrier's
    Patient Securing

Suit, Convalescent
Suitcase, Coated Cloth
Surgical Packs
Suspenders, Equipment
Suspension Assembly, Helmet
Table, Steel
Tag, Marker
Tape, Paper, Computing Machine
Test Set, Lead
Thimerosal Tincture
Tongs, Food Serving
Toothbrush, Aspiration
Tourniquet, Non-Pneumatic
Traffic Safety Clothing
Trousers, Operating
Tube, Bleeding
Urinal, Incontinent
Wall Clocks
Washcloth, Disposable
Wax, Floor
Wedge, Wood
Wheel Chocks
Whistle, Ball Plastic
Wire Bundle Assemblies
Wrapper, Sterilization

MILITARY RESALE COMMODITIES

Brooms
Brushes
Clothesline, Plastic
Deodorizers
Dish Cloths
Dusting Cloths
Dustpans
Fine Tip Markers
Fly Swatter
Garden Tools
Ironing Board Covers
Laundry Bags
Mops and Refills
Mopheads and Refills

Mop Handles
Oven Mitt
Paint Rollers and Covers
Pens
Plastic Cutlery
Potholder
Pour & Store Opener
Room Air Freshners
Scrubbers
Sponges
Tennis Rackets
Towel, Kitchen
Washcloths
Wax Applicators and Refills

SERVICES

Affix Labels, U.S. Patent Documents
Assembly of Belt, Trousers
Assembly of Food Packets
Assembly of General Mechanic's Tool Kit
Bursting & Packaging of Commemorative Stamps
Campground Cleanup & Trash Removal
Catered Noon Meals
Film Developing
Food Service Attendant
Furniture Rehabilitation
Grounds Maintenance
Janitorial/Custodial
Janitorial/Elevator Operator
Keypunch and Verification
Laundry
Mailing
Mattress & Box Spring Rehabilitation
Metal Furniture Rehabilitation
Microfilm Reproduction
Microfilming Contract Files
Packaging
Rebuilding of Automotive Components
Repair & Maintenance of Electric & Manual Typewriters
Seedling Harvesting
Sewing
Shrink Wrapping Gift Packages
Tax Form Order Fulfillment

NARF
NATIONAL ASSOCIATION OF REHABILITATION FACILITIES

July 18, 1980

Mr. Earl Pasbach
Staff Director/Counsel
Sub-Committee on Labor
Standards
Committee on Education and
Labor
Annex 1, Room 617
U.S. House of Representatives
Washington, D.C. 20515

Dear Earl:

As a result of my testimony before the Sub-Committee at the Oversight hearings on Section 14(C) FLSA, a number of questions were asked of NARF. Attached, please find my responses to those questions, to be made a part of the record of the hearings. If you require any additional clarification, don't hesitate to contact me.

I shall look forward to opportunities to continue our discussions about these very important issues.

Sincerely,

Allen

James A. Cox, Jr.
Executive Director

JAC/chm

Attachments

1. Question

The Wall Street Journal has suggested that sheltered workshops take advantage of the workers they employ and that numerous abuses exist. What is your reaction to these allegations? How would you propose to improve the program to prevent them?

Response

There is sufficient reason to believe that deficiencies do exist in the delivery of rehabilitation and employment services provided in some sheltered workshops. The suggestion that these deficiencies are intentional and abusive is unfounded in actual practice. Experience has shown us that invariably such deficiencies are a result of inadequate information, knowledge and skills of the service providers and managers.

The sheltered workshop is a micro cross-section of the social, economic and governmental systems of society. Its effective and efficient operation depends on a skillful blending of rehabilitation and business methods and techniques. This process is complicated and compounded by confusing and often conflicting governmental regulation, competing funding requirements and inconsistent monitoring by the appropriate federal agencies. I am confident that the GAO investigation of workshops, soon to be completed, will support the above observations.

There are several steps in the solution. The first and most immediately effective action is for DOL to provide training to workshop staff in the operations of Section 14(c) FLSA. Such training must include information on correct pricing of contracts, Time and Motion computation, productivity and establishment of commensurate wage rates. Second, DOL must better train its field compliance staff in the unique operations of Section 14(c) to insure consistency of monitoring between states and within states. Third, DOL must establish a higher priority for workshops and increase the level of monitoring of workshops from the current 200 per year to 500 per year.

In additon to these efforts at the Federal level, as a profession, workshops must better govern themselves through the operationalization of a profession-wide Ethics Code. We must encourage periodic self-monitoring of production and payroll records by workshop administrators. We must encourage on-going in-service training of staff in wage and productivity determination methods and techniques.

These activities along with the recognition at the congressional and governmental level of a national employment policy toward handicapped persons, both in workshops and in competitive employment, will reduce the deficiencies in the system and eliminate the opportunity for alleged abuses.

2. Question

You have advocated the integration of WAC clients into sheltered workshops and the raising of the WAC earnings calculation as a means of increasing individual productivity and wages. Could you explain this form a rehabilition perspective?

Response

There are three rehabilitation issues that relate to flexible integration of WAC and regular workshop clients. The first of these is that forced segregation is clearly discriminatory and violates the intent, if not the letter, of Section 504 of the Rehabilitation Act. This is supported in communications of 3/12/80 from the HEW Office of Human Rights to DOL which states;

> "Thus, we urge DOL to liberalize its interpretation of the FLSA, and not require, in all cases, the physical separation of all sheltered workshop and work activity center clients. While we recognize the policy arguments for such separation, studies conducted by DHEW indicate that in certain cases, consistent with the Section 504 approach, it is desirable to integrate clients of a sheltered workshop or work activities center. We encourage DOL's reconsideration of this issue and reinterpretation of the law so as to permit maximum flexibility in accordance with a handicapped client's needs, while at the same time ensuring compliance with the FLSA." A copy of the letter is attached.

The requirements of the WAC Certificate restrict the amount of earnings an individual is allowed and restricts them to therapeutic activity, of which work is not a major objective. The effect of the cap on average annual earnings for WAC clients is to hold them at a regulated productivity level of about 25%, regardless of potential productivity. To exceed the earnings cap results in either loss of WAC Certification or the necessity to transfer the WAC clients to a regular program. Most WAC clients are not productive enough to maintain productivity at the 50% level required in regular workshops. The result of this restriction is usually to discontinue the encouragement and development of the individual beyond the productivity limitations of the WAC; in effect discontinuing rehabilitation and accepting subpotential productivity as a desirable outcome.

Work as a rehabilitation modality is just as critical to whole person rehabilitation as speech therapy or physical therapy or social adjustment training. The psychological and social effects of participating in an individually appropriate work experience contribute to the overall well being, growth, and development of the handicapped individual. To impose an artificial limitation on how much an individual is assumed to be able to work, without testing that ability and capacity for work, limits that individual's opportunities to expand his or her productivity, therefore work and vocational development, and consequently economic advancement. When these personal areas are inhibited by governmental regulation, the inevitable result is a less than maximally self-sufficient and self-appreciating individual and subsequently a less than maximally rehabilitated and contributing member of society.

The third issue is related to issue two above and involves modeling of appropriate work behaviors of the more productive workers by the less productive workers. Rehabilitation is, in large part, a learning process. Individuals learn in many ways. The psychological process of behavior modeling is a very efficient, effective and accepted way of learning. It has been demonstrated oftentimes in the workshops, that behavior or role modeling is the most appropriate training technique for many severely disabled individuals, including the mentally retarded. When the application of this technique is precluded on the basis of governmental regulation (i.e.,segregation requirements) the rehabilitation process breaks down. The client is the ultimate looser. The very reason for being in a therapeutic program is subverted.

3. Question

You have proposed establishment of a national employment policy for the disabled. What items should be given priority?

Response

There are several objectives which will comprise a national employment policy for the disabled. These objectives are presented in a priority order.

1. Rehabilitation services must be available to assist persons with one or more handicapping conditions to become able to function at the highest possible level and thereby, become able to contribute to society.

2. To the maximum extent possible disabled people should have the opportunity to hold jobs in competitive employment, and incentives should be provided to employers to encourage hiring of handicapped people.

3. Persons who are limited in their ability to hold competitive jobs must be able to obtain sheltered employment. Such employment opportunities should be stable and adequately compensated.

4. Legal, physical, attitudinal and other barries to employment of disabled persons must be eliminated or minimized.

5. Health care, housing, financial supports and incentives, and other services necessary for a decent standard of living must be available to persons whose disabilities severely limit gainful employment.

The argument that rehabilitation pays, that persons restored to work are tax payers and not tax users has prevailed in the Congress and in governmental departments to sustain the V.R. Program and others. This principle is sound and should be pursued politically and programmatically throughout all governmental programs serving the disabled.

Conflicting requirments between various programs must be eliminated. within programs and between programs must eliminated as well. There must be a consistence of philosophy and attitude toward the disabled from the Congress down to the local service provider and employer. The operationalization of this policy and attitude must begin with comprehensive examination of all the programs providing rehabilitative and employment related services to disabled persons.

4. Question

What would be the effect on sheltered workshop employees if they were paid the statutory minimum wage?

Response

The present special minimum wage program under Section 14(c) of the Fair Labor Standards Act allows for payment of not less that 50% of the higher of the statutory minimum wage or commensurate wages. The statute recognizes the inability of many handicapped workers to compete in the competitive labor market due to certain circumstances, primarily low productivity. Workers are to be paid the percentage of the minimum wage or higher based on their individual productivity. If they are required to be paid the statutory minimum wage and their productivity does not increase proportionally, the workshop will have to find funds from other sources in order to pay the difference between the amount of income produced based on their productivity and the statutory minimum wage. Unfortunately, many sheltered workshops do not have alternative sources of income. Consequently their choices would be to not offer employment to individuals required to be paid the statutory minimum wage or to close their doors. The net effect would be the same -- fewer employment opportunities for handicapped people.

5. Question

Please state your opinion as to whether or not the workshop's advisory committee should be reestablished, and why?

Response

The Advisory Committee on Sheltered Workshops was originally established in 1939 by order of the Administrator of the Wage and Hour Division. The Committee continued in existence until 1977 when it was abolished by Executive Order reducing the number of administratively established federal advisory committees. In the 95th Congress, Senator Riegle introduced S. 2139 to reestablish the Advisory Committee, however, no action was taken on the bill.

The Committee's charge was to advise the Administrator on enforcement of the Wage and Hour law pertaining to employment of handicapped workers at wages below the statutory minimum in sheltered workshops and competitive employment. Its recommendations and advice were used in policy formation, decision making, program planning and in the development of the current regulations on employment of the handicapped in competitive employment and in sheltered workshops. Additionally, the Committee kept the Department aware of conditions in workshops and those affecting handicapped people in competitive employment.

The Committee had 25 members at the time it was terminated. These members included national workshop organizations, labor, industrial and consumer public representatives. Appointments were made by the Secretary from a slate of nominees provided by the Administrator of the Wage and Hour Division. The term of office was for two years and was renewable. The Chief of the Branch of Handicapped Workshops was the Secretary to the Committee. Committee members received no compensation. However, DOL paid for transportation and per diem for out of town members.

NARF recommends that the Advisory Committee be reestablished by the Department of Labor. The DOL is responsible for administering the Section 14(c) program. This program now covers 1700 workshops and 3000 work activity centers which provide employment opportunities for over 200,000 disabled people each year. Increasing demands are being placed on workshops and workshops are being looked at increasingly as employers for long term clients. Deinstitutionalization of disabled people as well as P.L. 94-142, Education for All Handicapped Children Act, have shifted the focus of sheltered workshops as only transitional employment agencies, to long term services and sheltered employment of severely disabled people. Additionally, P.L. 96-265, the Social Security Amendments of 1980, have removed some of the disincentives to employment for disabled people.The CETA amendments made it clear that handicapped people are eligible for services. The amendments to the Small Business Act (P.L. 96-302) allow sheltered workshops to bid for small business set-asides. All of these changes allow for new opportunities for workshops, but they also place increasing demands on workshops to provide employment opportunities in the most efficient and productive way and the DOL program is affected by these changes.

Reestablishment of such a committee is within the public interest and in connection with the duties imposed upon the Department of Labor by law. There has been considerable publicity in the media regarding the sheltered workshop program. Also, there has been concern among members of the handicapped community about the nature and function of workshops and the need to increase productivity and work opportunities for handicapped people, the lack of any formal, continuing manner of communicating these concerns to DOL and the lack of information back from DOL on its thinking regarding sheltered workshops. Reestablishing the Committee would be one step toward improving the administration of this vital program.

As part of its advisory role, the Advisory Committee would provide informative field input and technical and policy recommendations on sheltered workshops and the disabled individuals they serve. Membership on the Committee should represent the viewpoints of all organizations concerned with employment of the handicapped under these programs. Therefore, membership should include representatives of sheltered workshops, contracting agencies, industrial employers, labor, and consumer advocate organizations.

In making this recommendation, we are well aware of the requirements of the Federal Advisory Committee Act, 5 UCS Appendix I. No advisory committee can be established by an agency unless such establishment is determined as a matter of formal record to be in the public interest in connection with the performance of duties imposed on the Department of Labor by law. As noted above, we believe such a committee is in the public interest and directly related to DOL's responsibilities under Section 14(c) of the Fair Labor Standards Act. A statement on the reestablishment of the Advisory Committee,drafted and supported by NARF and other organizations,a list of the organizations, and a proposal for Advisory Committee membership is attached.

Question

What is your opinion as to the integration of work activity clients into the workshop program?

Response

The overriding purpose of the FLSA is to encourage the maintenance of a minimum standard of living for workers and to discourage employer abuses in terms of working hours and wages. Since the inception of the FLSA of 1938, provisions have been made for exemption of handicapped workers under special circumstances. This exemption recognizes the public interest in promoting the self-sufficiency and physical and psychological independence of the handicapped by providing employment opportunities to those unable to enter or compete in the competitive labor market. As workshops serve increasing numbers of mentally and severely physically handicapped people, the assumptions upon which 14(c) was passed in 1966 appears to be more rather than less valid.

As the result of a vastly different workshop population now, from 1938, those principles established through the experience derived from 14(c) must be applied within the workshop population; not just to it. As described in my response to question two, we feel strongly that at this time, and consistent with the intent of the FLSA, it is in the best interest of handicapped persons who work in work activity centers and regular program workshops to eliminate the segregation requirements of the WAC certificate and permit integration when such integration is predicated on the rehabilitation and economic needs of the individuals involved.

7. Question

The Labor Department envisions a test program for single handicapped individuals to be paid 70% of the minimum wage with yearly increments culminating at 100% of minimum wage within 4 years. Would you please comment on this proposal?

Response

On February 2, 1979 the National Federation for the Blind (NFB) petitioned the Secretary of Labor to amend the regulations issued by the Department of Labor pursuant to Section 14(c) of the Fair Labor Standards in order to require payment of the full statutory minimum wage to blind or otherwise visually handicapped workers. During 1979 the DCL held hearings on the petition at which NARF testified against the petition. On May 27, 1980 Donald Elisburg, Assistant Secretary for Employment Standards, denied the NFB petition stating that:

> "The evidence at the hearing indicated that the employment opportunities of at least some blind workers, particularly those with multiple hadicaps, would be curtailed if they had to be paid the statutory minimum wage."
>
> "Even more importantly, adoption of a policy requiring that all blind workers must be paid the statutory minimum wage without exception would not be in accord with the provisions of section 14(c). Under that section, where an employer can show that a blind or visually handicapped worker meets the statutory tests, the employer is entitled to pay less than the minimum wage, and the Department cannot prevent that result. Thus, where a worker's productivity is low because of a physical or mental impairment and the worker's employment opportunities would be curtailed if he or she had to be paid the statutory minimum wage, we would not have the authority to require the employer to pay the statutory minimum wage to that worker."

However, the Assistant Secretary stated that the Department intends to conduct an experimental program in regular sheltered workshops and in competitive industry under which the special minimum wage would be progressively increased to the statutory minimum wage over a period of four years. The experimental program would be limited to workers who have a single handicap of blindness or visual impairment.

The regulatory authorities under which such a program can be established are 29 CFR 524.12 and 29 CFR 525.18. 29 CFR 525.18 states:

> "In addition to the issuance of certificates as provided in Sections 525.1 to 525.18, the Administrator may authorize the issuance of certificates to permit employment of handicapped workers or clients of a sheltered workshop at less than the applicable minimum wage under section 6 of the Act as part of experimental programs to increase employment opportunities for such persons. Such certificates shall be issued in such types of cases and on such terms and conditions within the scope of section 14 of the Act as the Administrator shall determine will best further any such experimental programs."

We do not believe the experimental program as proposed by DOL is in the best interest of handicapped people. The economics of such a program may work a disservice to them and actually result in decreasing employment opportunities contrary to its purpose, and to the regulations and the statute.

The Fair Labor Standards Act of 1966 (P.L. 89-601) set a floor on the amount to be paid to handicapped workers of not less than 50% of the higher of the statutory minimum wage or wages commensurate with those paid nonhandicapped workers in industry in the vicinity. The statute recognized the inability of handicapped workers to compete in the competitive labor market due to certain circumstances, primarily low productivity. At the same time the program provided for employment not otherwise available and payment of wages based on productivity. If a workshop is required to pay a percentage of or full statutory minimum wage which is greater than an employee's productivity, the workshop will have to find the funds to do so from other sources. The difference between the individuals's productivity and the amount required to be paid becomes a wage subsidy. If the workshop has revenues in excess of operating expenses or can find another source of income to pay this difference, there will be no problem with continuing the individual's employment and the workshop's operations. However, most workshops do not have alternative sources of income not based on productivity. Therefore, the majority would be unable to pay the required percentage of full statutory minimum. In my recent discussions with workshop directors, most of them stated that they would not want to assume the risk of this extra cost in a decreasing economy. They would either cease to employ the individuals in question or close their doors. The net result is that employment opportunities for these single disability handicapped workers would be decreased as opposed to increased.

Second, this program is being mandated for this single disability group and affected workshops without providing technical assistance. Recent articles on workshops and our own experience has shown that sheltered workshop personnel need assistance in performing wage-hour activities such as doing time and motion studies. Such assistance would increase a workshop's management ability and therefore increase workers opportunities for more productive employment.

Third, under the experimental program, Assistant Secretary Elisburg allows for a workshop or other employer to request an exception from the experimental program because of likely curtailment of employment opportunities. The affected worker would have to concur in any request for exception. We believe this requirement could lead to substantial abuse within the program and coercion of employees to sign the exceptions.

Finally, the program would be only for blind and other visually impaired handicapped workers. This establishes a precedent for discrimination on the basis of disability.

NARF supports the Assistant Secretary's desire to seek changes in the program that would lead to expand employment opportunities for handicapped workers. In my testimony before the subcommittee, I outlined our recommedation to this end with respect to sheltered workshops and work activity centers. We have recommended that the Department of Labor allow permissive integration of WAC clients with regular sheltered workshop clients and that the average earnings used to define a work activity center be reexamined and increased. Additionally, we have recommended that DOL devote personnel and funds to improving the ability of workshop managers to administer the program. We believe that many of the alleged abuses in the program are technical abuses. These occur because sheltered workshop personnel are unfamiliar with wage and hour concepts and their administration and would profit greatly from technical assistance in these areas. We have also recommended changes in other programs outside of DOL's jurisdiction, but which affect the work environment and therefore employment opportunities and productivity. These include capital investment in facilities and removal of employment disincentives under Social Security.

On July 11, I met with Herbert Cohen, DOL, to discuss these concerns about the proposed experimental program. We recommended that the program be redesigned to:

- include all single disability handicapped workers;
- be limited to a sample of workshops presently paying the statutory minimum wage or a percentage of the statutory minimum or commensurate wage above the 50% level without regard to productivity. We understand that some workshops are presently paying the statutory miniumum wage. Some of these workshops are state run facilities. It would be helpful to know how they are doing so and what funds are used for the wages, subsidy, and productivity;
- provide technical assistance by DOL field staff to participating sheltered workshops;
- allow other sheltered workshops employing single disability workers to participate in the program on a voluntary basis; and

- limit the program to a two year study with a report to the Assistant Secretary and the authorizing committees as the final product.

DOL has agreed to meet with us again to discuss the design of the program.

8. Question

What is the percentage of workshop employees that various organizations of your association mainstream into private industry?

Response

According to the Sheltered Workshop Study Volume II. released by DOL in 1979, the overall nationwide competitive employment placement rate of all workshops is 8.2%. This figure was derived from the study of 145,000 clients in all types of workshops. The percentage of competitive placements from the various types of programs is as follows:

Regular Programs	11.3%
Work Activity Centers	7.4%
Training & Evaluation	6.0%
Average, all Programs	8.2%

Placement varies from facility to facility. The NARF National Projects With Industry (PWI) Program, focuses specifically on the preparation of handicapped workers for competitive employment. The unique feature of this program is that industry becomes involved with the rehabilitation process and continues rehabilitation, adjustment and training services once the individual has progressed from the workshop to the industrial settting. This special emphasis program has a very high placement rate.

It is generally accurate to say that placement rates are higher in the high density industrialized areas than in rural suburban and inner city areas. Rates vary also with the capability of facility staff. The larger, better funded, better staffed workshops will usually have better placement rates than the smaller lesser staffed shops.

Another factor affecting the rate of placements from workshops is the perceived mission of the facility. Some facilities operate solely as transitional trainers and rehabilitators while others perceive the needs of the handicapped a balance between the two different approaches.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

March 12, 1980

The Honorable Drew S. Days III
Assistant Attorney General
Civil Rights Division
Department of Justice
10th and Pennsylvania Avenue N.W.
Washington, D.C. 20530

Dear Mr. Days:

In its February submission to the Interagency Coordinating Council (ICC), the Department of Labor (DOL) explores the relationship between sections of its regulation implementing the Fair Labor Standards Act (FLSA) and this Department's requirements under Section 504. Specifically, DOL concludes that its rules requiring the segregation of persons being trained in Work-Activities Centers do not conflict with the requirements of Section 504 that persons be served in the least separate setting appropriate for them.

As a result of professional and Congressional inquiries, the relationship between the two regulations has been under consideration within the Office for Civil Rights. Most recently, we have received a copy of a letter sent by Mr. James A. Cox, Jr., Executive Director of a rehabilitation facilities group, to Secretary of Labor Marshall (copy enclosed at Tab A). In that letter, Mr. Cox asserts that the segregation provisions of the DOL regulations conflict with the integration policy of this Department's Section 504 regulation.

We have addressed the issue in our response to Mr. Cox, a copy of which is also enclosed (Tab B). Specifically, on page two of our response we state our view that: "[N]either the DOL regulation issued under the FLSA, nor recipients which comply with them violate the provisions of the Department's regulation implementing Section 504." We have reached this conclusion because the Fair Labor Standards Act Amendments of 1966 (29 USC 214) provide that:

> "3(A) The Secretary may by regulations...provide for the employment of handicapped persons in work activities centers...

> (B) ... the term 'work activities centers' shall mean centers planned and designed exclusively to provide therapeutic activities for handicapped clients whose physical or mental impairment is so severe as to make their productive capacity inconsequential." (Emphasis added)

We recognize that DOL has acted under this authority in promulgating its regulation.

However, while the DOL regulation does not violate Section 504, we believe that DOL's implementation is unduly restrictive and contrary to Congressional intent in enacting Section 504. The Section 504 regulations mandate that handicapped persons shall be given:

> "...equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person' (Emphasis added) 45 CFR 84.4(b)(2)

Thus, we urge DOL to liberalize its interpretation of the FLSA, and not require, in all cases, the physical separation of all sheltered workshop and work activity center clients. While we recognize the policy arguments for such separation, studies conducted by DHEW indicate that in certain cases consistent with the Section 504 approach it is desirable to integrate clients of a sheltered workshop or work activities center. We encourage DOL's reconsideration of this issue and re-interpretation of the law so as to permit maximum flexibility in accordance with a handicapped client's needs, while at the same time ensuring compliance with the FLSA.

Very truly yours,

Roma J. Stewart
Director
Office for Civil Rights

Enclosures

PREPARED STATEMENT OF AUSTIN G. SCOTT, EXECUTIVE DIRECTOR, DALLAS COUNTY ASSOCIATION FOR THE BLIND

Thank you for the privilege of responding to certain statements made during the May 14, 1980 Oversight Hearing on Section 14-C of the Fair Labor Standards Act.

Regarding Section 14-C of the Fair Labor Standards Act, my position has been expressed by Mr. George J. Mertz, Executive Vice President of National Industries for the Blind (NIB). Rather than repeat what has already been said, I refer you to Mr. Mertz's statement, which was presented to the Subcommittee on Labor Standards of the Committee on Education and Labor during the May 14 Oversight Hearing. A copy of Mr. Mertz's statement is attached (Exhibit 1). I believe that the piece rate wage system, supported by the Special Certification Division of the United States Department of Labor, is the only equitable approach for paying sheltered workshop employees - particularly when used in conjunction with a workshop rate of pay which meets or exceeds the national minimum rate of pay.

Regarding the National Federation of the Blind (NFB), I support the policy adopted on November 27, 1979 by the Board of Directors of the Dallas County Association for the Blind:

> The Lighthouse believes the leadership of NFB to be harmful to the welfare of blind persons; therefore, the Lighthouse does not recognize the present NFB leadership as a responsible influence in the provision of quality services; the Lighthouse reaffirms its committment to work with all organizations, individuals and members of NFB who support quality services through standards and accreditation.

Regarding Jonathan Kwinty's and Jerry Landauer's January 24-25, 1979 Wall Street Journal articles, I am attaching a letter of response which I prepared on January 29, 1979 (Exhibit 2).

Regarding certain statements made by Dr. Kenneth Jernigan during the May 14 Oversight Hearing, I have neither met nor spoken with Dr. Jernigan; and the accusations he made are nothing but hearsay.

Regarding certain statements made by Mr. Ralph Sanders during the May 14 Oversight Hearing, I deny having discussed with him any concerted action against NFB, Blind Industries and Services of Maryland, and/or Dr. Kenneth Jernigan. During the May 4-8, 1980 NIB Annual Sales Meeting in San Diego, I did speak with Mr. Sanders at his request. Our conversation (which lasted no more than three minutes) was about NFB's apparent attempt to undermine the management of the Dallas County Association for the Blind and interfere with our efforts to re-establish accreditation. These activities had come to my attention in a letter from the local NFB Chapter (Exhibit 3) and in an untitled handout (Exhibit 4) distributed to Dallas Lighthouse employees. During my brief conversation with Mr. Sanders, I also suggested that he settle his account with NIB. There is no truth in the statements made about me by Mr. Sanders to the Subcommittee on Labor Standards.

Regarding certain comments made by Representative Barry M. Goldwater, Jr. on behalf of Mr. Jerry Lorenz during the May 14 Oversight Hearing, I consider some of these to be libelous remarks against workshops for the blind. Mr. Lorenz recently has secured an account long served by the Dallas Lighthouse. In June 1979, Safeway Stores (Headquartered in Oakland, California) discontinued sales of blind-made mop products, after twenty-eight years of satisfactory service from the Lighthouse. This business (representing over $100,000 annually) was given to Mr. Lorenz, and resulted in the unemployment of seven blind individuals. Moreover, local Safeway buyers do not understand their company's decision to change suppliers after such a long history of good service from the Lighthouse. Mr. Lorenz failed to mention these transactions which reflect his (not our) competitive edge in private sector markets.

Regarding statements made by Dr. Kenneth Jernigan about the National Accreditation Council (NAC) during the May 14 Oversight Hearing, why would anyone oppose standards which make agencies for the blind accountable for public and private funds? Yet, NAC continues to be discredited by the NFB. For one of many examples of the irresponsible tactics employed by the NFB to damage NAC's reputation, I refer you to Dr. Richard Bleeker's April 21, 1980 letter to the Honorable Ray Marshall, Secretary of Labor (Exhibit 5). NFB's questionable practices might not have occurred had the organization operated under the generally accepted standards required by the National Accreditation Council. It is a matter of pride to us that the Dallas County Association for the Blind is accredited by NAC. I am enclosing a copy of our annual report (Exhibit 6), which reflects our accountability to the community. And, I cannot help but wonder to whom or to what the NFB is accountable for the millions of dollars collected by Dr. Jernigan.

Regarding statements made by Messrs. Sanders and Jernigan about the movement within sheltered workshops toward more automated production processes, I believe these shops are to be commended, not condemned. First, by utilizing modern production techniques, our vocational training programs are more appropriate to the needs of the competitive labor market than the old obsolete "hand" methods. At the Dallas Lighthouse, many of our vinyl fabricating jobs are identical to those of outside industry. Consequently, successful placements (in industry) are more likely. Second, in many cases, automation has created simple machine-tending jobs that are appropriate to the severely handicapped. At the Dallas Lighthouse, many of our plastic injection molding jobs are ideal for the deaf-blind and multihandicapped-blind who do not have the fine motor and/or neuromuscular skills necessary to perform hand assembly. Third, by automating many of our production processes, we have been able to market a larger volume of product at a higher margin, thereby enabling the Dallas Lighthouse to pay higher wages.

Regarding Representative Barry M. Goldwater, Jrs.'s statements during the May 14 Oversight Hearing, I believe his understanding of sheltered workshop operations can be expressed by his own words: "I, personally, do not know whether the workshops for the handicapped are being properly administered..." In other words, he admits that he does not know what we in the field are doing for the blind. If Representative Goldwater would make himself more knowledgeable, he would discover that three of the California workshops under NFB direction have closed their doors, subsequently throwing hundreds of blind people out of work. As a point of fact, in Texas we have twelve sheltered workshops for the blind, whereby California now has just one small workshop in San Francisco.

Finally, I would like to share with you an unsolicited letter (Exhibit 7) from the Dallas Lighthouse Coordinating Committee (representing our blind workers) to me and the Board of Directors of my organization. Obviously, the statements made about me to the Subcommittee on Labor Standards during the May 14 Oversight Hearing were made by people ignorant of my activity in the area of providing services and employment to the blind.

Again, thank you for the privilege of replying.

[illegible]
LIGHTHOUSE
FOR THE BLIND
training and
administration
4245 office parkway
volunteer program
4306 Capitol Ave.
P.O. Box 64420
Dallas, Texas 75206
(214) 821-2375

EXHIBIT II.

January 29, 1979

Mr. Laurence G. O'Donnell
Managing Editor
The Wall Street Journal
22 Cortlandt Street
New York, N. Y. 10007

RE: Your recent articles concerning
Sheltered Workshops for the Blind,
the first article appearing January
24, and second, 25th, 1979.

Dear Mr. O'Donnell:

It is hard for us to believe that a newspaper of the stature enjoyed by The Wall Street Journal could print an article of that nature, without giving complete facts. In our opinion, the articles reflected some truths, non-truths, half-truths, misinformation, irresponsible reporting, and apparent bias journalism. As a matter of fact, we feel that unless your publication retracts some of its statements about workshops, it is leaving itself liable. Moreover, based on the evidence available, it is our opinion that there is a conspiracy between your reporters and the National Federation of the Blind.

The National Federation of the Blind purports to represent the blind, and claims to represent 50,000 blind individuals. This is a ridiculous figure. We question whether it represents as many as 5,000 in this country. Some of our many differences with this militant group is that it does not recognize workshop accreditation or seem to care about or even recognize the multiply handicapped blind. Quite frankly the first of your articles appears to be straight out of the Federation's party line. In the public interest, and particularly in the interest of all blind people in this country, we would suggest that The Wall Street Journal investigate the National Federation of the Blind, including the director of the organization, and the reasons for his leaving Iowa as former director of a state program there. Voluminous material has been printed within the past several years concerning this organization, which would make any managing editor seriously review all the material your publication has printed regarding the blind.

[illegible] Executive Director
[illegible] President
[illegible] Vice President
[illegible] 2nd Vice President
[illegible] Vice President & Treasurer
SKILCRAFT
[illegible] Secretary
[illegible] Vice President

Your publication implied that workshops are exploiting the blind in this country. What a ridiculous inference! Far from being exploited, there is a positive effort, year after year, on the part of all qualified workshops to upgrade jobs and services, including utilization of shop automation which creates jobs, allowing more and more severely impaired to handle them. As a case in point, the Dallas Lighthouse for the Blind operates a multiple service agency, including a workshop in which forty percent of the clients are severely handicapped. Without rehabilitative preparation we would not be able to employ blind people with such severe handicaps. Why did your articles not mention the deaf-blind, the blind mentally retarded, the blind with cerebral palsy, the blind with various orthopedic, emotional, and mental handicaps? There is no place in competitive industry for many of these people. In fact, it requires all the professionalism that trained rehabilitative staff can muster to employ them in a sheltered workshop.

Your articles stated that many workers complain that their piecework rates are so low that even sighted people would have trouble earning the minimum wage. Let us lay that bit of gross misinformation to rest: piece rates come from industry itself, in keeping with the directives set out by the U. S. Department of Labor, Wage and Hour Division. Further, the workshop rate of pay is also worked out in conjunction with the Department of Labor. This is to say that the worker is guaranteed an hourly rate of pay, irrespective of his piece rate. If his piece rate is greater than his hourly rate, then he gets the greater figure.

Your article stated, further, that sheltered workshops should be phased out and replaced with training in skills which would qualify the blind for placement in industry. Be advised that the concomitant skills necessary for industry are taught by the workshops or by a state agency which works cooperatively with the workshops and does, indeed, place those who qualify for competitive employment and want to be placed.

It is much too lengthy to take your misstatements one by one and refute them, but some are so blatantly wrong that something must be said--such as workshops having a vested interest in keeping blind people employed in the shops. This is utter nonsense. Most shops, our own included, profit by placing the blind elsewhere.

You also took a swipe at work activity centers where workers are paid next to nothing in some cases. We do not have such a center, but where these do exist, they are for those people who can earn next to nothing in any kind of situation, including a sheltered workshop, and are thus unemployable. The reasoning frequently is that they are sometimes better off doing something than sitting at home or in a nursing home or in a state hospital. Production for the workshop is next to nothing, and this is not a factor. A work activity center is a place where one goes and earns what he is capable of earning. It sometimes happens that skills are developed in such a setting, and people move into an active skills training program, preparing them for employment. Let me ask you, is it better for a blind person to remain aloof from social contact, or be made useful even though he or she may have a handicap? If you have any doubt, ask some of the parents of those persons served.

Your article did not mention the national average rate of pay for the blind in the workshops. As a point of fact, it is much higher than for any other disability group in the country. In our own case, our average rate of pay is higher than the national minimum, and our fringe benefits compare favorably with industry. I happen to know the reporter who wrote these articles for your publication was given all of these facts by National Industries for the Blind, and the President's Committee, but they were not printed.

Just as one cannot generalize about disability groups, one cannot generalize about workshops. It is a reality that workshops differ as widely as anything else. Those of us who pride ourselves on our benefits, our rehabilitation training, and our employment practices do not like to be cataloged as a rigid this or that and see our individual positives watered down by collective negatives.

Much misinformation and negativism has been spread regarding sheltered workshops per se and the public at large needs to be told that inequities, where they exist, are the exception rather than the rule. Those of us who operate accredited workshops would lose our accreditation if we did not maintain uniform standards of excellence.

I have been executive director of the Dallas County Association for the Blind for twenty-seven years, and having been involved not only locally, regionally and nationally, I consider myself reasonably enlightened on the subject, with activities serving the blind of sheltered workshops.

The Dallas Lighthouse, as well as all other qualified workshops for the blind across the country, are supervised by a Board of Directors, made up of very responsible business people who serve voluntarily, without pay. These Directors, as a rule, are among the best citizenry. Those contacting me already regarding your articles are very much concerned about the apparent poor reporting in the articles

We would like you to visit our Dallas Lighthouse, meet our Board of Directors, see our operation--and get the true facts, which is typical of most workshops. Also, hear a tape of KVIL's radio, a 30 minute interview program of blind services, broadcast Sunday morning, January 28th, at 8:30. Fortunately, it was accurate, first hand, and gave credit where credit was due.

Yours truly,

DALLAS LIGHTHOUSE FOR THE BLIND

Austin G. Scott

Austin G. Scott
Executive Director

cc: Mr. Robert L. Bartley, Editor
Mr. Ray Shaw, Executive V.P.
State of Texas, Governor's Committee
U. S. Senators, and House of Representatives
National Industries for the Blind
President's Committee for the Purchase of
Blind Made Products and Services
United Way of Metro Dallas, Inc.
American Foundation for the Blind
National Accreditation Council
Affiliated Leadership League
U. S. Dept. of HEW, Office of the Blind
and Visually Handicapped Commissioner
Regional Office of H.E.W.
Local and State News Media

EXHIBIT III.

FEB 12 [illegible]

Progressive Chapter
National Federation of the Blind
Box 1450
Dallas, Texas 75221

February 10, 1980

Mr. Austin Scott, Director
Dallas County Association
for the Blind
3940 Capitol
Dallas, Texas 75206

Dear Mr. Scott:

We have been informed that the Dallas County Association for the Blind (Dallas Lighthouse) is completing requirements for reaccreditation with the National Accreditation Council for Agencies Serving the Blind and Visually Handicapped (NAC) prior to an on-site visit scheduled in May. The National Federation of the Blind opposes such accreditation. There are many reasons which could be stated, but we are certain that you, like other supporters of NAC have read various issues of the Braille Monitor and are well aware of our position.

Due to your close ties with NAC, we, the organized blind, in the best interest of all blind people, hereby request a copy of the following documentsL

1. The names, sex, ethnicity, salaries, title and dates of employment of all employees of the Lighthouse.
2. All financial reports, audits and evaluations completed during the last two years.
3. All accounts, vouchers or contracts dealing with the receipt or expenditures of public or other funds.
4. A complete list, including address and telephone number, of the Board of Directors of the Lighthouse.

We certainly hope that you will comply with this request within ten days after receipt of this letter.

Sincerely,

Larry Streeter

Larry Streeter, President

LS:bgr

EXHIBIT IV.

Each of us in our daily activities face an ever bearing amount of control. It seems that we are constantly being regulated in one instance or another. Our legal system proclaims that laws are written to guarantee the best for every cittizen.

But for the blind, the best is yet to come. Over 70% of all blind people are under-employed or unemployed. Many are forced to work in workshops for the blind, doing menial jobs and earning far less than the minimun wage. The Wall Street Journal (January 24-25, 1979) expressed the following:

> "Blind people for years have entered the job market through so-called "sheltered workshop", sheltered by law that is from having to pay the blind workers the minimum wage. Operating under a 1938 law that excludes them from the wage and hour regulations are well over 100 workshops around the country that employ at least 6,000 blind workers to produce, assemble, or package various products. Many of the workers complain that their piecework rates are so low that even sighted people would have trouble earning the minimum wage."

Yes, even in Dallas at the Lighthouse for the Blind., many blind workers are not being paid the minimum wage nor have they been offered adequate training so that they could leave the Lighthouse and find suitable opportunities in private industry. A negative attitude about blindness prevails and continues to be promoted by the vary agency established to "help" the blind.

Why does this control continue to exist? Many people doing work with the blind have a definite "vested interest." These individuals have followed the American Foundation for the Blind (AFB), the richest and most powerful agency doing work for the blind in this country. The AFB, with all its money, prestige, power and big names on the board; the same agency which helped create National Industries for the Blind (NIB), which sponsors and supports the workshops (for good fees of course.) The AFB created (in every sense of the word) the real stumbling block for the blind, The National Accreditation Council for Agencies Serving the Blind and Visually Handicapped, (NAC). NAC, with its "high standards" is more interested in developing the physical facility and environmental surrounding at its accredited agencies rather than requiring good quality training so that the blind can find a suitable position in society.

The Dallas Lighthouse has chosen to affiliate with this interlocking system of power and control; it is accredited by NAC and the Lighthouse director has, at one time or another, served on the board of NAC and the NIB. By NAC accrediting the Lighthouse, this clearly shows it approves of providing inadequate training and paying sub-minimum wages; by the Lighthouse wanting NAC's "seal of approval" proves it believes that blind people cannot participate as equals in society. To make matters worse, the Lighthouse is a United Fund agency. United Way has just approved $129,990.00 for the Lighthouse to continue its program of vested interest and control.

We, the members of the National Federation of the Blind (NFB), the largest organization of blind consumers in the nation, are opposed to the NAC accreditation of any agency doing work with the blind. We desire only the best that life can offer to blind people. Opportunity, security, and equality, (the goals of the NFB), can be achieved by providing good quality training and at the same time, stressing a solid positive belief in the abilities of blind people.

We ask for your moral, social, and financial support to combat the control and vested interest over the lives of our blind friends and colleagues in the workshop systems. Your assistance will be most appreciated.

For futher information, please call The National Federation of the Blind, 65-6641, or write P. O. Box 1450, Dallas, Texas 75221.

National
Accreditation
Council
for Agencies Serving the Blind & Visually Handicapped

79 Madison Avenue
New York, N.Y. 10016
(212) 683 8581

EXHIBIT V.

Officers & Board of Directors
Arthur L. Brandon
President Emeritus
Otis H. Stephens
Knoxville, Tenn.
President
[illegible]
New York, N.Y.
1st Vice President
George E. [illegible]
Miami, Fla.
2nd Vice President
C. Owen Pollard
Augusta, Maine
3rd Vice President
Mrs. Joseph [illegible]
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Portland, Maine
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Wayzata, Minn.
Ray Kunze
Little Rock, Ark.
Joseph J. Larkin
Brooklyn, N.Y.
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Providence, R.I.
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Cincinnati, Ohio
Robert F. McLean
New Orleans, La.
[illegible] Metcalf
Miami, Fla.
[illegible] Miller
Washington, D.C.
[illegible] Miller
Sacramento, Cal.
[illegible]
New York, N.Y.
[illegible]
Washington, D.C.
LeRoy F. Saunders
Oklahoma City, Okla.
David L. Schnur
New York, N.Y.
Austin G. Scott
Dallas, Texas
Wesley D. Sprague
New York, N.Y.
Dean W. Tuttle
Greeley, Colorado
Mrs. [illegible]
Atlanta, Georgia
[illegible]
Jacksonville, Fl.
Mrs. [illegible]
Leesburg, Fla.
Executive Director
Richard W. Bleecker
Presidents Council
Arthur L. Brandon
Louis H. Rives, Jr.
Daniel D. Robinson
Peter J. Salmon

April 21, 1980

APR 24 1980

The Honorable Ray Marshall
Secretary of Labor
U. S. Department of Labor
200 Constitution Avenue N.W.
Washington, DC 20210

Dear Secretary Marshall:

Thank you for your letter of January 31 regarding the problems currently facing sheltered workshops for blind and other handicapped persons.

I was pleased to receive your assurance that programs for the handicapped continue to be a high priority within the Department of Labor, and that you have asked Assistant Secretary Elisburg to meet with us to obtain our ideas for improving the sheltered workshop program. I do plan to attend this meeting, and look forward to a productive exchange of ideas.

Meanwhile, I am compelled to write to you on another matter of grave concern. We recently learned that the Department had awarded the National Federation of the Blind (NFB) a $157,323 contract for "Job Opportunities for the Blind". This is a profoundly regrettable decision. It supports - and tacitly endorses - the activities of a group that attacks legitimate organizations of and for the blind that refuse to be dominated by NFB's tactics.

Clearly, there is a need for the Department of Labor to explain its decision to use public funds in this manner. Let me give you a single brief example of why I am concerned:

After receiving the contract, NFB issued a pamphlet titled Section 504 and Blind Employees. It states, "This material is provided to you as a service of Job Opportunities for the Blind (JOB). JOB is operated by the National Federation of the Blind under contract with the U.S. Department of Labor." When we look closely at this material, we find that, within the guise of providing helpful information to blind persons and potential employers, NFB vilifies a number of organizations, including the National Accreditation Council. Here's what I mean: "NAC symbolized (and it still does) everything odious and repulsive in our long and painful tradition - custodialism by governmental and private social service agencies, ward status, vested interest, intimidation, exclusion, and second-class citizenship".

Can you please tell me how this gratuitous and false statement about NAC will help blind people get jobs? And I trust that you have an explanation for allowing taxpayers' money to pay for these insults.

What safeguards has the Department established to prevent the "Job Opportunities for the Blind" contract from becoming an undisguised showpiece for NFB's radical philosophy and militant methods?

I am enclosing a copy of the position on the NFB national leadership that was adopted last year by the board of directors of the National Accreditation Council. It should help you to understand the way in which the nature and purposes of NFB are perceived within our field.

I ask that you give this matter your personal attention. Under which authority did a respected Department of our government make an unfortunate decision of this sort? On what basis can you justify the publication of materials that distort the work of responsible persons and reputable organizations in the field?

I trust you understand now why I think that this is an embarrassment to the reputation of the Department as a body genuinely committed to improving conditions for the handicapped.

Thank you very much for your attention to this serious matter.

Sincerely yours,

Richard W Bleecker

Richard W. Bleecker, Ed.D.

RWB/plm

Enc: NAC Policy

EXHIBIT VI.

DALLAS LIGHTHOUSE FOR THE BLIND

1979 ANNUAL REPORT

The President's Message

All of us have worked our way through the decade of the '70's, which was a tremendous growth period. Sales increased from $400,000 to almost $2,600,000. Our overall assets grew at least $2½ million, which includes one million in equipment.

If we are to fashion ourselves in the image of the '80's, we must take stock — to see where we have been, where we are going, and how we are going to get there.

The beginning of the decade saw us accredited by the National Accreditation Council, with attendant improvements in workshop standards and procedures.

The early 1970's also saw us venture into an uncharted land — plastics manufacture. This type of manufacture has proven to be a consistent winner in the marketplace, has created jobs and products for us, and has made possible the improvement of fringe benefits for our workers.

In 1974 the Dallas Lighthouse developed a formal vocational training program for the adult deaf-blind. And this program remains today as the only one of its kind in the entire state.

In 1976 we moved into the new Administration and Rehabilitation Building, with the expanded warehouse facility. This $900,000 expansion program gave the Lighthouse an additional 26,000 square feet under roof. In this same year we began a new program — the Independent Living Program for the Elderly Blind.

Meantime the Production Department was expanding in all directions, creating new jobs and developing job space from what had been warehouse area.

In 1979 we firmed up plans for further expansion of our Rehabilitation facility — namely, the architectural go-ahead for a new 18,000 square feet structure, which will provide new and innovative rehabilitative programs, as well as living quarters for trainees — in addition to space for recreation and service programs. In line with this we were awarded a substantial federal grant toward the total amount of $1 million needed for the new structure, to be administered through the State Commission for the Blind.

We accomplished all the above while in a changing world and in a changing economy. The old economic guidelines were no longer helpful. In a very real sense the Lighthouse director and board members had to find their own way.

As we enter the new decade, we do not anticipate any immediate downturn in our business; however, we do expect an economic correction. But once again these are changing times, and we have many variables.

Ultimately our responsibility is to our blind clients, and this requires our continued best efforts. This demands professionalism on the part of all staff, plus a high degree of competency. Board members are likewise not exempt from accountability. Active and outgoing stewardship is most important.

We seek always to broaden the base of our service to the community, meantime striving to meet the need of our clients for individualized service. We are pleased with our past accomplishments and are optimistic about the future.

Finally, we must salute all those volunteers who have worked tirelessly with so many segments of our programs. All these marvelous people have extended helping hands which many of us have been able to hold onto.

Ralph Brinegar,
President

N.I.B. TIES ARE STRONG

George J. Mertz, recently appointed executive vice president of National Industries for the Blind, visited the Dallas Lighthouse shortly after assuming his new appointment. Mr. Mertz replaced Noel B. Price who retired after fourteen years with NIB. Prior to his appointment as executive vice president, Mr. Mertz served as vice-president-finance since 1969. He has worked closely with all NIB departments and the General Council of Workshops for the Blind and participated in all workshop management training and board orientation programs.

Mr. Mertz personally contacts many of the associated shops to discuss programs with agency directors, board members, and community leaders, as he did at the Dallas Lighthouse. A close working relationship of over twenty-eight years with the National Industries for the Blind has netted the Dallas Lighthouse with outstanding employment opportunities for the blind of Dallas.

National Industries was originally founded to administer the Wagner O'Day Act, enacted in 1938 and amended in 1971 as the Javits-Wagner O'Day Act which directs agencies of the United States Government to purchase, under certain conditions, products and services from workshops for the blind. The President's Committee for Purchase from the Blind and Other Severely Handicapped implements the provisions of the Act.

NIB's intent and goal is that every blind and multi-handicapped blind capable of working at any level of employment be provided job opportunities. In order to provide these employment opportunities, NIB offers various programs to over 100 associated industries across the nation. These programs include: special workshops, work activities centers, rehabilitation services, subcontract procurement and military resale.

George J. Mertz, Executive Vice President (left) and Austin Scott, Executive Director, examine injection molded items for Liquid Paper brushes.

Lighthouse and Accreditation — Accountability and Compatibility

or . . .

Accreditation Comes of Age

The Dallas Lighthouse is completing its tenth year of accreditation by the National Accreditation Council. The Lighthouse was one of the first workshops in the country to receive such recognition, and one of two only in the entire state — up to and including the present time. In 1980 this agency will be in line for reaccreditation.

The assessment of staff, procedures, methods, facility, and quality is something which is done in every walk of life — in education, in hospitals, in the medical profession, and in industry. One might ask: "Would I let a surgeon operate on me if he had not met certain medical standards? Or let a pharmacist fill my doctor's prescription?"

The corner grocery has its own kind of assessment, as does the supermarket and the produce stand and the drugstore, to name a few. Social service agencies require their own kind of assessment. There is no way of gauging the effectiveness of service programs unless there are guidelines and standards.

Responsibility for developing or revising standards is carried by the Commission on Standards. The Commission uses national technical committees and gets broad input from agencies, consumers, and the general public in refining and developing standards.

Standards are used in planning, evaluating, and implementing programs. They provide a baseline from which any organization can plan and work for strengthened services, better quality, and better performance.

The way it works is this: the agency completes an exhaustive and soul-searching self study, using approved methods. Findings are submitted to "N.A.C." Then a team of experts, selected from workers in this type of endeavor, arrive to determine whether the agency is as good as or as bad as it says it is. These knowledgeable volunteers spend several days at the agency, focusing their visit on gaining a thorough understanding of the organization and evaluating its management and services.

Finally the on-site team develops a written report, outlining its commendations and its recommendations. This review report is used to assist N.A.C.'s Commission on Accreditation in arriving at a decision about accreditation or reaccreditation.

The Dallas Lighthouse is understandably proud of being accredited, and looks forward to reaccreditation in 1980. Accreditation signifies to consumers and to the community that the agency meets nationally accepted standards for quality services for blind clients, that it has responsible management, and that it has public accountability.

Rehabilitation in Review

To be forever dissatisfied with the status quo, and constantly upgrading for new and better — these are the hallmarks of an effective rehabilitation program.

The year 1979 was particularly significant because it was a time when the Dallas rehabilitation staff made final plans for the new work activities center and the new residential facility for trainees when the expanded rehabilitation facility is constructed. The challenges are formidable.

It is a point of pride that the Dallas Lighthouse offers as broad a spectrum of services as possible. A recapitulation of these is as follows:

Vocational Evaluation

This is the first step toward rehabilitation — assessment of strengths and weaknesses, and ultimately a determination of vocational direction.

Work Adjustment

This service is an adjunct to evaluation, and is preparatory training to entry into a skill training program.

On-the-Job Training

This vocational endeavor prepares one for entry into a trade in order that he may take his place in the community or at the Lighthouse as a wage-earning worker.

Deaf-Blind Services

This training embraces all the foregoing types and provides specialized activities for this special disability group. It is highly individualized, to suit the respective trainee.

Orientation and Mobility

This is one of the newer services provided. Qualified instructors teach the proper travel techniques to those blind persons who require them.

Social Work

A qualified staff person, at the Master of Social Work level, serves the blind community of the county in many ways — counseling, referral, home visits, emergency medical assistance, planning for on-going needs, and helping with all phases of the Social Security program.

The professionals recognize that in the entire field of rehabilitation there are no experts. Nonetheless the Dallas Lighthouse requires that those staff members who provide human services maintain a high level of proficiency.

Finally, effective rehabilitation always demands considerable rightness: the right professional climate, under the right leadership, with the right staff, all heading in the right direction.

"My blindness is my sight. The shadows that I feared so long are full of life and light."
Alice Cary (blind)

Production

Performance and Growth Promote Workshop Production

Rehabilitation is a necessity, social services are a must, and recreation and ancillary services for the blind are important adjuncts to any workshop program. Nonetheless production is the real "glue" which holds all the workshop components together.

In order to have strong service programs first it is important to have a strong production program, which means, in effect, strong industrial manufacture and subcontract assembly, as well as effective warehousing. These elements are the well-spring of an effective workshop. The stronger these elements, invariably the stronger the service programs. And the ultimate benefactors are those blind clients whom the Lighthouse serves at this workshop.

As a point of fact, an agency composed of service programs only cannot endure, and neither can an outright production shop without effective service programs. Theirs is a meaningful and necessary coexistence.

Representative 1979 milestones include the following: for the first time a conveyor belt was utilized in certain phases of assembly work, thus promoting better production. The manufacture of Liquid Paper brushes began. Plastic clothes pin manufacture went into production. Another staff person was added in the quality control section to improve the overall efficiency of the department and to insure better quality in our products. More production space for workers was arranged in the warehouse proper, as a conversion measure for manufacturing efficiency. Finally, numerous time studies were done to improve work methods and subsequently to speed production and to promote efficiency. The year 1979 was one to remember, and 1980 should be even better.

Independent Living Program

The highly successful Independent Living Program has something to offer everybody — providing everybody is a senior citizen. It offers skills in daily living, arts and crafts, mobility, casework, community referrals, exercise, socialization, recreation, and hot noon meals.

Now, in addition to the foregoing activities, a new dimension has been added: the "Geriatric Nurse Program." Competent and registered nurses are at the Lighthouse on Fridays to provide services for the older American participants. The nurses can provide comprehensive medical services, including certain laboratory activities and follow-up work as well. This is a real plus for the Independent Living Program, and helps to enhance an already attractive array of services.

Recreational activities offered include monthly "family-night" parties, quarterly "day-time" parties, summer musicals, beep baseball, and weekly domino and bridge games.

Last year the position of Activities Supervisor was added to the program. And 305 men and women took advantage of services. There were 4,458 meals served, there were 77 group gatherings, and 4,731 volunteer hours of service.

Helping the blind to help themselves.

SUMMARY OF OPERATIONS AND FUND BALANCES

YEAR ENDING 12-31-78 AND 12-31-79

Assets	December 31, 1979*	1978*
Current Assets:		
Cash	$ 118,797	$ 95,406
Temporary cash investments	155,689	55,000
Receivables —		
Trade	273,280	189,057
Pledges & grants	167,852	137,429
Inventories	560,384	674,840
Prepaid Expenses	28,049	24,619
Total current assets	1,304,081	1,167,351
Property, Plant & Equipment, at cost, net of accumulated depreciation of $712,513 in 1979 & $653,291 in 1978, substantially all pledged		
Land	115,282	115,282
Buildings & improvements	1,050,377	1,079,615
Automotive equipment	34,235	12,967
Machinery, furniture & equip.	482,029	564,620
Total property & equipment	1,681,923	1,772,484
Undeveloped Real Estate	489,294	489,294
Other Assets:		
Equity interest in donor's estate	26,536	26,536
Real Estate held for sale (net of accumulated depreciation of $32,908 in 1979 and $25,656 in 1978)	11,835	16,085
Other	7,204	7,180
	45,575	49,801
	3,520,823	3,478,930

Audited figures

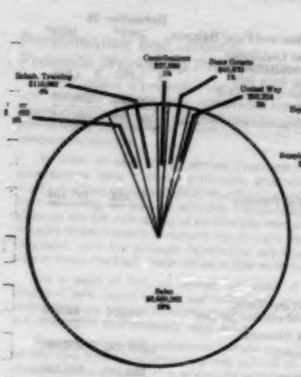
Liabilities and Fund Balance	December 31 1979*	1978*
Current Liabilities:		
Current portion of long term debt	$ 1,000	$ 1,000
Accounts payable & accrued liabilities	106,491	165,507
Total current liabilities	107,491	166,507
Deferred Revenue	167,852	137,429
Long-Term Debt, net of current portion	68,500	69,500
Fund Balance:		
General	2,646,580	2,575,094
Restricted	530,400	530,400
Total Fund Balance	3,176,980	3,106,494
	3,520,823	3,478,930

STATEMENT OF REVENUE AND EXPENSES

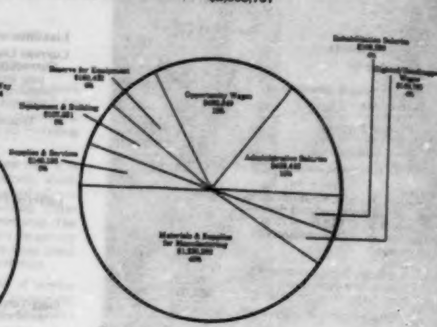
YEAR ENDING 12-31-78

	Combined Operating Fund	Sheltered Workshop	Vocational Rehab.	Ind. Living Program	Management & General	Reserve
Revenue:						
Sales	$2,630,562	$2,630,562	$ —0—	$ —0—	$ —0—	$ —0—
Cost of Goods Sold	1,236,735	1,236,735	—0—	—0—	—0—	—0—
Gross Margin	1,393,827	1,393,827	—0—	—0—	—0—	—0—
United Way Grant	93,254	—	—	—	26,069	67,185
State/Federal Grant	152,357	—	110,682	26,675	15,000	—0—
Legacies, Contributions & Other Income	71,400	—	16,775	22,360	27,964	4,301
Total Revenue	1,700,518	1,393,827	127,457	49,035	69,033	71,486
Expense:						
Salaries & Fringe Benefits	1,182,346	885,586	108,290	44,705	143,765	—0—
Occupancy	137,801	85,986	17,690	13,424	20,639	—0—
Printing, Publicity, Postage and Office Supplies	15,317	2,827	903	1,451	10,136	—0—
Other Expenses	293,778	211,535	34,657	9,354	38,232	—0—
Allocation of Management and General Expense	—0—	71,240	42,390	30,009	(143,639)	—0—
Total Expense	1,629,032	1,257,128	203,930	98,941	69,033	—0—
Intra Fund Transfers	—	126,379	(76,473)	(49,906)	—0—	—0—
Increase (Decrease) in Fund Balance	$ 71,486	$ —0—	$ —0—	$ —0—	$ —0—	$ 71,486

REVENUE
$2,937,253



EXPENDITURES
$2,865,767



Services Rendered — 1979

Orientation and Mobility	116
Workshop Services	172
Social Services	506
Vocational Services	55
Total Persons Served	849

Wilbanks Chosen Worker of the Year

DALLAS MORNING NEWS

The Dallas Lighthouse has chosen Douglas Wilbanks as worker of the year, and has nominated him for the Peter J. Salmon Award.

Douglas has been employed as a winder in the broom shop since August, 1975. Most significant of all — and not his high productivity or his great pride — is that he is a deaf-blind individual. However, Douglas tries not to let his disability interfere with his vocational endeavors. He is hard-working and almost tireless, a top producer of quality goods, and certainly a credit to the agency.

Perhaps Douglas is best characterized by one of his statements: "I like to work because I know I'm helping the Lighthouse business."

EXHIBIT VII.

Nov. 29, 1979

Mr. Austin G. Scott and
Members of the Board of Directors of
The Dallas County Association for the Blind

Gentlemen:

We, the members of the Lighthouse Coordination Committee, on behalf of all your employees, would like to express to you our deep and heartfelt appreciation for the many generous benefits you have given us over the past few years. To name just a few—the twelve paid sick days per year which many other companies do not offer; the many holidays we enjoy with pay; and the two, three, and four weeks of paid vacation we get each year according to our seniority.

For these and all the other considerations we receive, we thank you, and we hope that we are deserving of such kindness.

We would also like to let you know how much we appreciate your authorization of a committee of workers so that our thoughts and problems may be brought to the attention of the administration.

Last, but certainly nor least, we thank you for your continuous efforts to keep us working under difficult circumstances, even in these trying times.

We wish you all a very happy holiday season and the best for the new year.

Your Coordination Committee

Alloah Knight
Virginia Harrison
Beulah Mae Upnor
Mabel Harrison
idne Ward
Samuel Phillips
Bill Slack
Eugene Knight
Leonard Vaughn
Raymond Guerrero

PREPARED STATEMENT OF IRVIN P. SCHLOSS, DIRECTOR, GOVERNMENTAL RELATIONS DEPARTMENT, AMERICAN FOUNDATION FOR THE BLIND

Mr. Chairman and members of the Subcommittee, I am pleased to present the views of two national organizations on Section 14(c) of the Fair Labor Standards Act (FLSA) of 1938. These organizations are the American Association of Workers for the Blind, the national membership organization of professional workers with blind persons, and the American Foundation for the Blind, the national voluntary research and consultant agency in the field of services to blind persons of all ages.

Both of these national organizations believe that Section 14(c) of the FLSA if adequately monitored and enforced by the Department of Labor will effectively assure handicapped workers in sheltered workshops and work activity centers of training, employment, and therapeutic work opportunities at remuneration commensurate with their productivity. Therefore, we do not believe that any changes in Section 14(c) are necessary and urge that none be considered at this time.

Sheltered workshops and work activity centers have an important role to play in the delivery of a variety of work-related services and the provision

15 WEST 16TH STREET, NEW YORK, N.Y. 10011/TEL.: (212) 924-0420/CABLE ADDRESS: FOUNDATION, NEW YORK

FIELD OFFICES
1660 L Street, N.W., Washington, D.C. 20036
100 Peachtree Street, Atlanta, Georgia 30303
821 Market Street, San Francisco, California 94103
1860 Lincoln Street, Denver, Colorado 80203
127 North Dearborn Street, Chicago, Illinois 60602

of employment opportunities for specific segments of the severely handicapped population, including certain blind and visually impaired persons.

Workshops serve as an important resource for the evaluation and training of vocational rehabilitation clients, many of whom may have been adversely affected by educational and cultural deprivation stemming from long-term neglect and institutionalization. This is particularly true of deaf-blind and other multi-handicapped individuals.

For many of these same individuals, the workshop is the major resource in the development of work skills and work habits which can lead to placement in competitive employment alongside non-handicapped workers, or to the interim step of employment in an enclave work situation operated by competitive, profit-making employers. For a variety of reasons, the sheltered workshop will, in fact, be a place of extended or terminal employment for some handicapped workers, whether the individual earns the prevailing minimum wage under Section VI of the FLSA of 1938 or the appropriate subminimum wage authorized by Section 14(c) of that Act. Among these reasons will be lack of competitive employment opportunities owing to economic conditions, as well as multiple disabilities which clearly reduce an individual's productive capacity for work in the competitive job market. It is likely that workers in competitive industry with production output as low as some sheltered workshop employees would have their employment terminated.

With regard to the use of workshops as training facilities, both of the organizations I am representing believe it is desirable to use a separate part of the facility from that used to provide terminal employment and are strongly opposed to the use of work activity centers for this purpose. The latter are intended to provide therapeutic programs for individuals whose productive capacity is inconsequential; and their environment is not psychologically conducive to preparing handicapped persons for productive work in regular industry.

While we believe that the FLSA and its implementing regulations should provide adequate safeguards to assure payment of proper wages to handicapped workers in workshops, we recognize that violations do occur and recommend vigorous enforcement of the law by the Department of Labor. We also oppose the practice of diverting workshop income to subsidize other program activities in multi-service agencies and firmly believe that the handicapped workers who produced that income through their labor share in it through appropriate increases in their pay and improvement in their fringe benefits.

Our two organizations encourage workshops to strive for the objectives of bringing blind workers engaged in extended or terminal employment to a level of productivity justifying payment of the applicable minimum wage. We believe that this can be accomplished for many of the workers through skillful job layout and modernization of production methods and equipment. To this end, we urge provision of technical assistance by National Industries for the Blind, National Industries for the Severely Handicapped, and the Rehabilitation Services Administration through Federally-supported programs authorized by the Rehabilitation Act of 1973 and other laws. In addition, we believe that workshops could benefit from utilizing programs authorized under the Domestic Volunteers Service Act, such as the Senior Corps of Retired Executives (SCORE).

Finally, we believe that both state vocational rehabilitation agencies and workshops themselves have an obligation to periodically review the status of handicapped workers in transitional and terminal employment in workshops and to seek competitive employment opportunities for those qualified for jobs in regular industry. Ideally, the workshop should be reserved for those individuals whose handicapping conditions seriously curtail their productivity; and we recommend that workshop management, with the aid of resource agencies like those previously described and industry, seek to exploit technological advances which can enhance the productivity of these terminal employees. In this way, we believe that these severely handicapped individuals will be given an opportunity to have their earnings substantially improved.

In conclusion, Mr. Chairman, our two organizations believe that sheltered workshops fill a vital need in the constellation of services to severely handicapped individuals in our country and that the administrative safeguards as well as better program utilization we have recommended will enhance the role of workshops in serving the small segment of the nation's handicapped population in a more efficient and effective manner.

1936 Lyndale Avenue South
Minneapolis, MN 55403
June 4, 1980

JUN 11 1980

Congressman Edward P. Beard
131 Cannon House Building
Washington, D. C. 20515

Most Honorable Congressman Beard:

On May 14 and 15, 1980, I attended the Oversight Hearing of the Congressional Subcommittee on Labor Standards which was held specifically to cover Section 14(c) of the Fair Labor Standards Act which allows subminimum wages to be paid to handicapped persons. I was there on behalf of the Minneapolis Society for the Blind, Minneapolis, Minnesota.

We at Minneapolis Society for the Blind (MSB) are concerned about the issues brought up at this hearing. Being a sheltered workshop, we are most concerned about the prospect of having to pay a set wage to all workers regardless of their productivity. We, like other sheltered workshops, sincerely believe that if we are so ordered we would not be able to withstand the financial pressure, and would be forced to close our doors not only to the working people at MSB, but also to the people we serve in our Vocational Rehabilitation and Vocational Services Centers. These services have a long and outstanding reputation in this area, and would be sorely missed if we were forced to close our doors. The impact to the blind and multiple handicapped population of this area would be staggering.

While in Washington I was honored to visit the offices of Minnesota Senators Rudy Boschwitz and David Durenberger, as well as the office of Minnesota Congressman Martin Sabo. They showed a keen interest in our concern about the hearing and pledged their cooperation. Congressman Sabo's office was pleased to inform me that there have not been any reports of impact on industry from our agency or any other sheltered workshop in Minnesota. Needless to say, we were very happy to hear this.

The issue of safety and working conditions was also brought up in the hearing. The safety record at MSB is an excellent one, second to none. With a well lighted shop for the safety to the sighted and partially sighted workers, and wide, well defined aisles for the blind, our workshop is very easy to move around in. There is an excellent ventilation system, including air conditioning for the comfort of the workers. All our machines are well guarded and set up, and the operators well instructed in the safety and operation of these machines. All work stations are spacious and well supervised to make our shop a safe and pleasant place to work.

We do not encourage blind people to remain at MSB for indefinite periods of time as sheltered workshops have been accused of doing. There are no pay incentives or other incentives offered. Rather, there are various programs facilitated to place blind and multiple handicapped workers in competitive jobs in the community. Our Vocational Services Department, over the past four years, has an excellent placement record. (See attached placement statistics.) Also our Rehabilitation Center has provided services for a large number of blind and multiple handicapped persons for many years. Education in braille, typing, home management, cooking, personal grooming, plus other skills such as abacus training have enabled these people to enter into educational opportunities, and to live active and productive lives.

I am a blind shop worker at MSB and chairman of the MSB shop committee. I do not speak for all blind people, no one person or group can. I speak only for the blind workers at MSB and have the unanimous endorsement of the shop committee for this testimony.

In closing, Mr. Beard, I wish to thank you and your subcommittee for allowing me to testify in this way. I ask that this letter be documented into the records of this hearing as testimony.

Respectfully,

Leonard W. Decker

Year	No. of Clients	No. Placed	Perc. of Placement
1976	37	8	21%
1977	38	18	47.3%
1978	41	18	43.9%
1979	55	30	55.5%

RESPONSES TO QUESTIONS REGARDING MINIMUM WAGE
FOR BLIND WORKERS IN SHELTERED WORKSHOPS

Submitted by the National Federation of the Blind

September 10, 1980

QUESTION:

"Please state the nature of the National Federation of the Blind."

RESPONSE:

The National Federation of the Blind is a membership organization of blind people, nationwide in scope. The Federation is a non-governmental body, organized by blind persons and controlled by the blind themselves. NFB is not an agency "for" the blind; it is an organization "of" the blind, speaking on behalf of the blind. The Federation's membership is a broad, cross-section of the blind population in this country, and membership is open to all. When the Federation speaks, it is generally regarded as the representative voice of the blind, much as farmers' organizations are seen to represent farmers or teachers' groups are regarded as speaking for all teachers. In the context of sheltered workshops, NFB represents the blind who perform direct labor. We do not represent management.

QUESTION:

"Please state how many blind workers the National Federation of the Blind represents in the United States. What percentage of the blind does that figure represent?"

RESPONSE:

The National Federation of the Blind represents blind shop workers in the same manner that organized labor represents persons who work throughout our national economy. About 1/3 of the 6,000 blind people who work in workshops are actually members of NFB, but we cannot help representing the remaining 2/3, since what we accomplish (or do not accomplish) will inevitably have an impact on their lives and livelihoods. Just as the United Auto Workers Union represents the auto workers, regardless of membership in the Union, NFB represents blind people, including those who work in sheltered workshops but do not formally join the Federation. Auto workers who are not members of the UAW still get the benefits of Union contracts, just as blind people who are not members of NFB receive the benefits of our work to improve laws and opportunities.

QUESTION:

"It has been stated that if we require the workshops to pay all blind workers the minim wage, such increase in cost for workshop activity will lessen the number of blind and other handicapped workers who would be able to obtain jobs in the workshop programs. What is your answer to this statement?"

RESPONSE:

This argument against the minimum wage for blind shop workers is identical to the statements of business and industry whenever there is talk of increasing the minimum wage established under Section 6 of the Fair Labor Standards Act. Will minimum wage bring massive layoffs among blind shop workers? We doubt it, since the workshops will still have their contracts and production schedules to meet. Moreover, in many instanc the cost will simply not be that great. Under present law (which requires annual increases in pay even for those on subminimum wages) we have not seen any trend to indicat that Federally ordered pay hikes for workers result in less jobs. This is probably because the work is still there to be done, so management absorbs the costs which go with paying higher wages. In point of fact, workshops are already required to meet price increases in many areas (including energy costs, the cost of materials, and in salaries paid to professional staff) but these added expenses are absorbed without laying off blind shop workers. Data gathered from several studies released over the past eight years shows no decline whatsoever in the number of blind people working in sheltered workshops.

QUESTION:

"Do you believe the Advisory Committee established under the sheltered workshop program should be reinstated? Please explain."

RESPONSE:

We have no particular interest in reinstating the Advisory Committee on sheltered workshops since, during its existence, the Committee served only as an additional meth for management to influence policies of the Wage and Hour Division in the United State Department of Labor. The Advisory Committee did not make even a pretense of represent shop workers. If it is reinstated, shop workers must be equally represented along wit management.

QUESTION:

"How many of the blind workshops currently paying all client/employees federal minimum wage or more, are being subsidized by State or Federal funds?"

RESPONSE:

All agencies which operate sheltered workshops are being subsidized in a variety of ways. These subsidies include: exemption from Federal, State, and local taxes; direct Federal financial assistance; State administered grants, which also include a Federal share; direct State appropriated funds; donations from civic organizations and the public; fees for services paid by public and private agencies who make referrals to the workshops; expansion and improvement project grants; grants for purchasing land and constructing buildings; staffing grants; United Fund appropriations; and in some States there are also wage subsidies. There is no evidence to show that workshops whic are currently paying all blind workers at least the Federal minimum wage have access t any greater amount of subsidy than do workshops which fail to pay minimum wage.

QUESTION:

"To what degree are they being subsidized?"

RESPONSE:

The precise form and amount of subsidy for a given workshop will depend on sever factors unique to the particular situation. While subsidies may not be available for the direct purpose of compensating blind shop workers, they are used regularly to mee other expenses, freeing up income from sales of merchandise, which can be allocated t meet direct labor costs. Unfortunately, the subsidy programs which do exist normally do not result in a reallocation of funds in order to pay better wages to the shop wor In point of fact, subsidy programs will, more often than not, result in hiring additi professional staff.

Many of the chief opponents of minimum wage for the blind operate sheltered workshops in New York State. These agencies receive hefty subsidies from the State. One subsidy (paid to each workshop by the State Vocational Rehabilitation Agency) is available for the direct compensation of blind employees, subject to the proviso that each employee who is subsidized under this program must be paid less than the minimum wage. In other words, the workshops in New York State are not only subsidized, but they are also handed a bonus (another subsidy) so long as they keep blind workers on subminimum wages.

QUESTION:

"Do you believe that blind people should be paid a minimum wage without regard to ability, motivation and productivity? If so, where would you expect the subsidy dollars to come from?"

RESPONSE:

Blind people should be paid at least the Federal minimum wage on the same basis that it is guaranteed to sighted workers -- that is, the law requires employers to pay a certain minimum amount because Congress determined that public policy would best be served if workers have a minimum floor of protection to prevent exploitation and abuse. Sighted workers do not "earn" the minimum wage because they are able, motivated and productive; they are entitled to the minimum wage because that's the law. Some employers may not like this law, but they still need workers, so they find ways to pay what the law requires of them. The true role of the minimum wage is that it protects workers from management exploitation if they are unable by some other means (for example, through a trade union) to protect themselves. The law does not require sighted people to "earn" the minimum wage, in the strict since of measured productivity, but it does impose this burden upon blind workers, and that is a fundamental distinction in treatment. This is a distinction which should be eliminated.

The proceeds necessary to pay all blind workers at least the minimum wage are already available to workshop management. In his testimony, Dr. Jernigan cited the figures gleaned from an examination of the balance sheets of a random sample of workshops associated with National Industries for the Blind. This random sample included 1/3 of the shops in the NIB system and showed that 77% of them had excess income over expenses during 1977, the latest year for which comprehensive figures were available. Moreover, these workshops operate at a substantial tax advantage over competitive industry, since they are "nonprofit" organizations or units of State government. Grants are made to the workshops for staffing and facilities, as well as for equipment. Priorities are extended for sales of merchandise to the States or to the Federal government. With all of these subsidies, and more, there are sufficient funds to afford minimum wage for all blind workers, if (and it is a big "if") the proceeds are divided fairly. Under the present law, there is no requirement for an equitable distribution of workshop income.

QUESTION:

"Would not workshops serve only the less severely handicapped persons, contrary to the intent of the Rehabilitation Act, if all blind persons employed in workshops had to be paid minimum wage?"

RESPONSE:

This question presumes that the predominant activity and function of workshops is to perform a "service" to the people who work in them. The presumption is false. Most workshops for the blind are not primarily places of rehabilitation or therapy, and the only "service" which is provided is the service of the blind employees who perform regular factory labor. Consider these graphic figures: during fiscal year 1979 the blind workers in the NIB system produced goods and services amounting to $127,267,416, while in return for their labors only 7.5% of the blind workers were rehabilitated into employment outside the workshops.

The intent of the Rehabilitation Act was not, we submit, to "serve" the more severely handicapped by placing them forever in sheltered workshops. There is ample legislative history, for example, which describes the workshops as "transitional" in nature, expressing the expectation that an increasing number of severely handicapped individuals will be placed in open industry. Underscoring this intent, Congress enacted several provisions to prohibit discrimination on the basis of handicap in employment and to require Federal contractors and subcontractors to take "affirmative action" to employ and advance in employment qualified handicapped individuals.

Moreover, sheltered workshops which produce a high volume of goods and services for purposes of commercial sales are truly business enterprises in the classic sense. These are programs which are guided primarily by business activity, not rehabilitation, and the people who work in the workshops are "employees" in every sense in which that term is normally understood. Over the past four years the National Labor Relations Board has affirmed this position in an unbroken line of cases involving sheltered workshops for the blind. Two cases (Lighthouse for the Blind of Houston and General Drivers Warehousemen and Helpers Local Union No. 968, Affiliated with the Internationa Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America; Cincinnati Association for the Blind and Truck Drivers, Chauffeurs, and Helpers, Local Union No. 100, Affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America) have been before the Board on more than one occasion, and the Board has steadfastly maintained the position of asserting jurisdiction, primarily because of the high volume of business activity in each workshop.

Finally, the argument that there is necessarily a corollary between severity of handicap and worker productivity is false. Severely handicapped people are usually more limited by road blocks and inefficiencies imposed on them by management than they are by their disabling conditions. Under present law, all workers, including the mos severely handicapped, are being penalized when management fails to provide sufficient production methods and equipment to enable them to produce at full capacity. Thus the law rewards management incompetence. Severely handicapped people can continue to be employed in workshops even under a required minimum wage.

QUESTION:

"In order to properly serve the blind and handicapped, why is any change in the law necessary? Cannot changes be made by regulation?"

RESPONSE:

Seeking a change by regulation, the National Federation of the Blind filed a request for rule making petition with the Secretary of Labor. DOL declined to grant the petition by letter dated May 27, 1980. The basis for denying the petition was that Section 14(c) of the Fair Labor Standards Act does not contain sufficient authori for the Department to exempt blind workers from the category of individuals who can be paid less than the minimum wage. Thus DOL has determined that it can not order a minimum wage policy unless Section 14(c) is amended by Congress. DOL has made a good-faith move, however, by designing an "experiment" to monitor the effect of increa ing wages for blind workers. The DOL position, as we understand it, is that sufficient legal authority exists for conducting an "experimental" program, but a permanent chang in regulations, requiring minimum wage for the blind, could not be accomplished withou a legislative mandate. Further, many workshops question DOL's "experimental" authorit and a law suit challenging the "experiment" on minimum wage for the blind is anticipat once DOL announces the start-up date for the new program.

QUESTION:

"How can handicapped persons be removed from welfare, SSI and SSDI rolls without havin an industry impact?"

RESPONSE:

In several ways Congress has already declared the Federal policy of moving handicapped persons off the welfare (SSI) and Social Security (SSDI) rolls by placing recipients of these benefits into productive, competitive employment. Presumably, the achievement of this policy objective may cause some impact on industry and the ability of unemployed or under-employed workers to secure jobs, in as much as we have not reached full employment. Nonetheless, handicapped people have been told to "get to work, wherever possible."

The annual expenditure of Federal tax dollars for the publicly supported rehabili tation programs is nearly $1 billion, and Congress appropriates these sums each year, expecting that thousands of handicapped people will be put to work as a result. Appropriations for rehabilitation are not made to provide recreation for the handicapped or to make them "more happy;" it is anticipated there will be a direct, traceable retu on the money in terms of increased productivity among the handicapped.

In addition, both the SSI and SSDI programs impose strong requirements on blind and disabled recipients to accept rehabilitation services and to carry out plans for becoming self-supporting. If a recipient refuses, benefits can be terminated. Moreover, in recent years the Social Security Administration and the Rehabilitation Servic Administration have been directed by Congress to enforce these requirements more rigid The Social Security Disability Insurance amendments of 1980 (public law 96-265) furthe emphasize the work incentive features just outlined and declare the objective of reduc ing outlays from the disability insurance trust fund.

Enactment of Federal legislation prohibiting discrmination against qualified handicapped individuals and requiring Federal contractors and subcontractors to take affirmative action in hiring and promoting the handicapped is further testimony to the policy of mainstreaming the disabled (including the blind) into the productive activity of our nation's work force. Nowhere can we find any qualification or backing off from this objective based on a possible impact on industry. A clear policy of full participation in employment for the handicapped has been adopted by Congress and reaffirmed on several occasions. Now it is time that the wage payment practices of employers be brought into line with the more enlightened and modern objective of creating equal opportunity.

QUESTION:

"What is the role of workshops in programs for Independent Living?"

RESPONSE:

The advent of "programs for Independent Living" has so far not changed, to any significant degree, the role which workshops have played as sheltered employers of the blind, although, as funding increases for Independent Living programs, there may be some additional subsidization of workshops. Insofar as employment opportuniti for the blind are concerned, workshops provide fairly regular work for about 6,000 individuals. Independent Living services, such as training in the skills and techniques of blindness and personal adjustment counseling, are normally not provided by a workshop. Workshops for the blind are predominantly producers of commodities and employers who primarily utilize blind labor. Nonetheless, many of them will probably begin receiving some Independent Living funds to cover the costs of their "training" functions. This will occur even without modification of their current programs. Independent Living subsidies for workshops will be a positive development, especially if the proceeds from sales of merchandise are then reallocated so as to increase blind employee wages.

QUESTION:

"How will any changes affect the utilization of workshops as a resource for training and employment under the CETA program?"

RESPONSE:

In our experience workshops have not generally been utilized as a resource for training and employment under CETA, so we would anticipate that a minimum wage requirement would have little, if any, effect. The CETA regulations generally require at least the minimum wage, the only exception being one of the training programs, whe an individual's overall economic situation is considered in determining what compensation will be paid under CETA. According to the Department of Labor the training and employment programs under CETA are rarely if ever used for handicapped workers performing direct labor in sheltered workshops. Generally wherever CETA is used in sheltered workshops it is for the purpose of employing sighted, non-handicapped workers for indirect labor functions or activities unrelated to the workshop program.

QUESTION:

"What is the opinion of the National Federation of the Blind on the segregation of work activity centers from sheltered workshops?"

RESPONSE:

We think it is desirable to maintain as much separation as possible between work activity centers and regular workshops. If the concept of a work activity center (where primarily therapeutic and rehabilitation functions are performed) is valid, then a work activities center is markedly different from a regular sheltered workshop (where productive business activity predominates). A recurrent problem with work activity centers is that although the production is supposed to be "inconsequential," the work done often becomes part of the larger productive activity of a sheltered workshop, thus blurring the distinction and creating a situation where workers are actually exploited by remaining in a work activity center on wages which are less than those that they would be paid in the regular workshop.

QUESTION:

"Where would the money come from to pay minimum wages to all disabled persons regardless of productivity?"

RESPONSE:

In responding to this question, I will be speaking to the issues which relate to workshops for the blind. The legislation introduced by Mr. Burton (H.R. 3764) calls for minimum wages for blind and visually impaired workers, and the data we have gathered relate to the industries which employ blind and visually impaired people. We would not be opposed to having minimum wage coverage for all disabled workers, but we are not in a position to make the arguments for those who are not blind.

In most of the workshops for the blind there is already sufficient capital to pay all blind workers at least the minimum wage. Many workshops hide this fact by transferring a portion of their proceeds to other programs of their parent agencies. Thus, workshop revenues pay for items such as "rehabilitation and social services," regardless of the fact that the workers are not the beneficiaries of these programs. Moreover, funds, including solicited contributions, as well as State and Federal grants, should be used for this purpose, and such funds are already available. The point is that a proper reallocation of funds would most often yield sufficient income to bring every blind worker up to the minimum wage while at the same time assuring that sales revenues are not diverted to non-workshop functions.

It should also be noted that most of the workshops solicit funds publicly, using the fact that they provide employment to the blind in a workshop as the primary charitable appeal. Solicitation materials from the Rhode Island Association for the Blind illustrates this. The solicitation brochure (captioned, "Job Opportunities for the Blind") reads in part:

> "At Rhode Island Association for the Blind, hundreds of big and little jobs are done by more than forty visually handicapped people every day. They assemble and package jewelry, collate advertising and religious materials and cane silverware handles. Using footpress, handpress and airpress equipment, they make holders for signs and do subcontracted jobs for local electronics

> firms.
>
> And just like any other industrial plant, our employees keep regular working hours and follow production schedules. They are trained by our plant manager and two foremen who oversee all jobs. Using new tooling ideas and methods worked out by our own production staff, we have cut the time required for some jobs. Quality control is also a priority with us and we have inspectors to make certain that all jobs are done in accordance with accepted manufacturing procedures.
>
> Not only do we successfully employ blind workers, but we pay them acceptable wages, thereby making many of them self-sufficient, achieving individuals."

If agencies which operate workshops appealed to the public for contributions to help the blind people they employ, it seems only fair for us to insist that the proceeds from these solicitations be used to increase the wages of the workers. What happens, however, is that the workshops wind up contributing to the other programs of their parent agencies. This is patently unfair.

Finally, we have reviewed a random sample of information (form 990) reports filed by 36 of the shops affiliated with National Industries for the Blind. This review shows that 77% of the agencies operating the workshops had excess income over expenses in 1977, the latest year for which the data was available. Most had net worth in the hundreds of thousands of dollars; many were well into the millions. These agencies are not really poor.

QUESTION:

"Would not workshops "cream" and serve only the less severely handicapped persons contrary to the intent of the Rehabilitation Act?"

RESPONSE:

Under present law there is literally no assurance that a workshop will not be selective in recruiting its work force; nor is there necessarily any corollary between better wages and "creaming." Some workshops will "cream" regardless of what wage requirements are imposed, others will not. Some will pay higher wages yet not "cream," some will pay lower wages and still "cream."

Requiring sheltered workshops to pay at least the minimum wage will not remove the obligation which rehabilitation agencies are under to serve the most severely handicapped. If this obligation extends to the employment practices of sheltered workshops (and we doubt that it does) it is not diminished to any degree whatsoever by a minimum wage requirement. In short, the obligation to serve the most severely handicapped exists independently from requirements which relate to wages, thus, even if a wage increase is ordered, a workshop would still be required to meet its obligation to "serve the most severely handicapped" -- if, that is, the workshop has such an obligation at all.

QUESTION:

"In May 1978, Mr. Gashel, your Washington Representative, testified on H.R. 8104. On page 33 of the printed testimony, he suggested that only 3,000 to 4,000 blind people would be affected if the shops had to pay the minimum wage; he then stated, 'Even if you laid all of them off it would only be 3,000 or 4,000.' What does Mr. Gashel propose as an alternative to employment for these 3,000 to 4,000 blind people?"

RESPONSE:

We do not project that there would actually be a layoff of from 3,000 to 4,000 blind people if a minimum wage requirement is instituted. In fact, we believe that sufficient capital exists in most of the workshop operations so that minimum wage could reasonably be afforded without any layoffs at all. This is not to say that there are no layoffs in the workshops, for laying off and rehiring are common practices in these industries. We do not believe that minimum wage would mean either more or less steady work.

Under present conditions, when work is often intermittent in the workshops, some of the blind employees simply get disgusted with the workshops and find jobs elsewhere in open industry. Others simply wait for more work from the shops. The important fact is that the workshop is not their only alternative for employment, and for many, placement in competitive industry is a viable option.

QUESTION:

"If Sec. 14 (c) of the Fair Standards Act is repealed and the payment of the minimum wage to all blind workers is made mandatory, what would you propose to do with the multi-handicapped blind whose productivity is not up to earning the minimum?"

RESPONSE:

Low productivity does not correlate with multiply handicapping conditions. We would propose paying workers at least the minimum wage, regardless of productivity, just as sighted, non-handicapped workers are paid minimum wage, regardless of their actual measured productivity. One of the inequities of the present law is that sighte workers with low productivity are guaranteed the minimum wage, while blind workers wit higher productivity are not. The testimony of Fred Rockwell (a shop worker at Arizona Industries for the Blind) speaks to this point. This inequity must be changed. The philosophy of the minimum wage is that it provides a minimal standard of living for industrial and other covered workers who are guaranteed that wage as a minimum payment. In actual fact, their productivity is not measured to see if they are "earning" the minimum wage, they get it, and then they get incentive pay beyond this amount if they prove their capacity to produce. Workers under union contracts get the wages called for in their contracts and bonuses to boot. The purpose for the minimum wage is to protect those workers at the lower end of the earning scale. These workers are often not otherwise protected by a collective bargaining agreement. In a very real sense, the minimum wage is a governmentally imposed guarantee on behalf of these workers, jus as a collective bargaining agreement is a negotiated guarantee for workers who are represented by a labor union. There is no reason why blind workers should not be entitle to as much protection in the work place as anyone else is, whether this protection com by means of collective bargaining agreements or the Federal minimum wage.

QUESTION:

"A. What percentage of the blind are employed in private commercial activities? B. What percentage are employed in sheltered workshops? C. What percentage are employed in work-activity centers and other similar activities? D. What percentage are fully unemployed?"

RESPONSE:

A. Approximately 8% are employed in private commercial activities.

B. Approximately 1% are employed in sheltered workshops.

C. There is no data base from which to estimate the number of blind persons employed in work activity centers. Our best guess is that the number would be less than 1,000 nationwide.

D. Approximately 80% of the employable (working age) blind population are unemployed. Among the blind population as a whole, 50% are over age 65 and largely unemployed.

QUESTION:

"Please state what evidence you have to show that blind workers in the workshop program are not being properly and adequately mainstreamed in private industry?"

RESPONSE:

Studies conducted over the past decade by the U.S. Department of Labor and the Rehabilitation Services Administration all corroborate the finding that placement of blind sheltered workshop workers into competitive industry is extremely low. National Industries for the Blind reported that only 7.5% of the workers in its affiliated shops were placed into competitive employment during fiscal year 1979. Moverover, workshops for the blind place fewer workers proportionately into competitive industry than do workshops which employ persons with disabilities other than blindness. Whethe this situation is "proper" or "adequate," there may be some disagreement, but there i no dispute about the figures; blind people are, by and large, not being placed from workshops into competitive industry.

The General Accounting Office released a report in the spring of 1980 which revi the extent to which persons placed in workshops are reevaluated for placement in othe employment. The report is critical of the workshops, pointing out that annual reevaluations (which are required by the Rehabilitation Act) are often not done or done poorly. This may shed some light on why placement outside the workshops is not occurring.

In testimony before the subcommittee we have cited the low placement rate of wor shops for the blind to show that the shops are not performing a function of rehabilit tion, or if they are, it is not resulting in competitive employment. The inescapable fact is that many people are being placed for permanent employment in sheltered workshops. This being the case, the argument that workshops are rehabilitation agencies rings hollow. Workshops are places of employment, where hard factory labor is done. It is our position that if an individual is placed in a permanent employment setting and expected to do a "full day's work," he or she should receive a "fair day's pay" in the form of at least the Federal minimum wage.

BISM
BLIND INDUSTRIES AND SERVICES OF MARYLAND · RALPH W. SANDERS PRESIDENT

September 18, 1980

Earl F. Pasbach, Esq.
Staff-Director-Counsel
Subcommittee on Labor Standards
Congress of the United States
House of Representatives
617 House Office Building, Annex #1
Washington, D.C. 20515

Dear Mr. Pasbach:

We are very pleased to respond to the fourteen (14) questions you posed to us on the issues relevant to the hearings on Section 14-C under the Fair Labor Standards Act. My answers are enclosed.

As additional information to our response to Question #7, I am enclosing a computer print-out of the wages paid to all production employees.

In addition, you have asked me what the average hourly rate is for blind, direct labor employees in our Industries Division in comparison with the average hourly wage paid to severely, multiply handicapped person. The average hourly rate paid to blind production employees is $3.33. The average hourly rate paid to severely, multiply handicapped blind employees is $3.23. The lowest wage paid in either category is $3.10 per hour. The highest wage rate paid to a blind, non-multiply handicapped employee is $4.35 per hour. This compares with the highest hourly rate paid to a severely, multiply handicapped employee of $4.35.

If you have any additional questions, or need clarification on any of the material submitted to you, please do not hesitate to contact me.

Sincerely,

Ralph W. Sanders
President

Enclosures (2)

cc: File

2901 Strickland Street, Baltimore, Maryland 21223 301 233-4567

QUESTION 1: It has been stated that if we require the workshops to pay all blind workers the minimum wage, such increase in cost for workshop activity will lessen the number of blind and other handicapped workers who would be able to obtain jobs in the workshop programs. What is your answer to this statement?

RESPONSE: The statement presented in question one contains several false premises as well as misleading conclusions. It also presents the worst possible management approach to the operation of a Sheltered Workshop Program for the Blind.

A number of Directors of Sheltered Workshop Programs for the Blind have publicly said that if they were required to pay the minimum wage it would mean a reduction in the number of severely, multiply handicapped blind persons who would be employed. This is a most unfortunate view of the role of management. The mandate for the Sheltered Workshop Program for the Blind is to provide training, and employment services to blind and severely, multiply handicapped blind persons. If cost of manufacturing increases in any sector, be it in the cost of raw materials, the cost of energy, the cost of financing or the cost of labor, it is management's responsibility to find methods of absorbing the cost either through increased pricing or through improved efficiency or both. During the past couple of years, all of us who operate Sheltered Workshop Programs for the Blind have had to absorb substantial increases in cost of raw materials, utilities, and financing. I have not observed any significant diminution in the number of blind and severely, multiply handicapped blind persons served in the sheltered workshop system. A good management team will respond to such increases through increased pricing, where possible, and through improved efficiency. It seems to me that the proper approach for management to take is to first look at reduction in management and support costs before looking to reduce cost in the training and employment of blind and severely, multiply handicapped blind persons. Unfortunately, this approach is not reflected in the statement contained in question one. Of course, management should always be vigilant to keep cost at a minimum. It is seemingly axiomatic, however, that where increasing costs do not require it, management will tend to increase the cost of management. This is not a phenomena restricted to Sheltered Workshops for the Blind, but is generally characteristic of business. The current rule under 14C which provides for subminimum wage payments to blind and severely, multiply handicapped blind persons gives management an automatic safeguard from maintaining tight cost control on management services, support services and other overhead factors.

The statement also falsely assumes that there is no correlation between wage rate and productivity. In fact, the underlying assumption behind the statement is that productivity is the principle guiding mechanism for income. Certainly both factors are interrelated. It takes improved productivity to warrant high wages, in most employment situations, but it also takes improved wages to ensure future increases in productivity. Based on the experiences of Blind Industries and Services of Maryland, we believe that minimum wage payments do have a direct connection with productivity levels. This may be truer in the Sheltered Workshop for the Blind environment than regular industry since you are dealing with a universe of employees who have been severely, economically suppressed throughout their employment history as blind and severely, multiply handicapped blind persons. Since BISM went to a guaranteed minimum wage policy on July 1, 1977 we have experienced a rate of per person productivity increase that is substantially ahead of that for American Industry. A portion of this increase in productivity must be attributed to improved training programs. No doubt, a portion of it is the result of improved supervision and management approaches to the manufacturing process. But, based on our experience, we believe that a significant, contributing factor is the minimum wage policy. For example, during fiscal years 1979 and 1980, the per person productivity increase per year was in excess of 20%.

The statement also falsely assumes that Sheltered Workshops for the Blind have available very little relief in the pricing mechanism, particularly for labor cost increases. This is simply not the case. A major source of sales for products and services of Sheltered Workshops for the Blind is to federal agencies under the Javitts, Wagner O'Day Act. The government sales program does provide a vehicle, sluggish as it may be, for obtaining price relief when legitimate cost increases can be demonstrated. A requirement that sheltered workshops for the blind pay minimum wage would be reflected in the cost of merchandise sold through federal agencies, and would result in higher incomes to Sheltered Workshops for the Blind enabling them to meet the increased labor cost. Granted, not all sales are in this area, but an aggressive management team can develop pricing mechanisms to provide adequate relief in other areas.

Finally, it should be kept in mind, that American industry has used a similar argument in opposing minimum wage increases throughout the history of the Fair Labor Standards Act. It has been claimed that substantial sectors of the unskilled labor market would be unemployed if minimum wages were increased. A look back at the employment history of the past several decades reflects that this argument is simply not correct.

QUESTION 2: Please state the number of blind individuals employed by your workshop during the years of 1976 to 1979.

RESPONSE:

Fiscal Year	Number
1976	120
1977	155
1978	130
1979	111

QUESTION 3: What percentage of these individuals are involved in work as production employees and how many are trained in independent living?

RESPONSE:

Fiscal Year	% Production Employees
1976	85
1977	85
1978	87
1979	92

Since 1977, BISM has operated a program for training for production employees not only in areas related to independent living, but in all areas where the employee can benefit from developing the alternative technique needed by the blind to succeed in all aspects of community life. In addition, a blind person entering the Industries Division today would, if needed, be provided a basic training program designed to assist the individual in functioning independently in the community.

QUESTION 4: To your knowledge, how many blind people reside in the Baltimore area?

RESPONSE: The best estimates are those calculated on the stand and HEW formula of two blind persons out of every 1,000 persons in the population. Using this formula, the blind population of Baltimore City is estimated to be 1,580.

QUESTION 5: How many blind people that are now employed have other handicaps? Please state what those handicaps are.

RESPONSE: a. Forty or forty-one percent of the blind production employees.

b. Handicaps:
   1. Cerebro-Vascular Accident
   2. Mental or Emotional Illness
   3. Socially or Culturally Deprived (foreign speaking - ex-convict, etc.
   4. Cardiovascular
   5. Other Neurological
   6. Deaf
   7. Mental Retardation
   8. Alcoholism
   9. Drug Addiction
   10. Epilepsy
   11. Diabetes
   12. Over 55
   13. Paralysis
   14. Amputee
   15. Orthopedic
   16. Deaf/Blind

QUESTION 6: Do you feel that a blind individual should be paid minimum wage regardless of his productivity?

RESPONSE: The general policy of required minimum wage payments does not provide a vehicle for paying individuals less than $3.10 per hour if an individual has low productivity levels. We believe that blind and severely, multiply handicapped blind individuals are entitled to the same treatment. As has been noted in testimony before the Subcommittee on Labor Standards, it is not at all uncommon for Sheltered Workshops for the Blind to pay sighted production employees the minimum wage or more even when their productivity is less than that of blind individuals who are being paid below the minimum wage level. The reason for the minimum wage payments to the sighted individual is clear. The law requires that the payments be made. Yet, the sheltered workshop management which claims that minimum wage payments for their blind workers would cause them to substantially reduce the blind and severely, multiply handicapped blind labor force has not seen fit, for whatever reason, to lay off sighted employees who are low in productivity rating. It should also be kept in mind, that a person's productivity level is as much dependent on the equipment, production line design, and support services as it is on the individual's ability. Many of the blind and severely, multiply handicapped blind individuals in Sheltered Workshops for the Blind have low productivity ratings which result not from the inability of the blind individual, but of obslete equipment, poor design of production lines, or inadequate support services. As long as the federal law permits subminimum wage payments, there is little pressure on the management of Sheltered Workshops for the Blind to make improvements in operation which will result in higher levels of productivity since the difference can be made up through reduced payments to blind and severely, multiply handicapped blind workers.

QUESTION 7: Please state the amount of wages being paid to your employees at the workshop? Please break that down on an individual basis?

RESPONSE: Total wages paid to production employees in the Industries Division during fiscal year 1980 amounted to $1,148,298.

QUESTION 8: Please state the amount of subsidies which your workshop received from State, Federal and local agencies for the years 1976 to 1979, inclusive. Please give a breakdown for each year.

RESPONSE: BISM annually received a State Appropriation which has been utilized to support the Vending Facilities Program for the Blind, a Rehabilitation Training Program, administration of the agency and the Industries Division - what would traditionally be called the Workshop Program. Listed below are the figures for the appropriate period with the Industries Division broken out as a special category so that you may have data which you can compare with other Workshop Programs.

State and Federal Funds to BISM

	State	Federal
1976	1,014,271	22,116
1977	1,014,271	31,200
1978	1,014,271	31,200
1979	1,087,834	29,025

Income to Industries Division

	State	Federal	Sales	% Sales to Appropriation
1976	545,555	0	1,794,937	30.3
1977	509,660	0	2,559,591	19.91
1978	356,641	0	3,289,800	10.84
1979	310,184	0	3,792,274	8.17

QUESTION 9: Please state the amount of income that you received from your work operations during these same periods? Please give a breakdown for each year.

RESPONSE: Total income from operation

	Sales	Appropriation	(State Approp. to Ind. as % of Sales)
1976	1,794,937	545,555	30.39
1977	2,559,591	509,660	19.91
1978	3,289,800	356,641	10,84
1979	3,792,274	310,184	8.17

QUESTION 10: It has been argued that if the workshops were required to give the blind workers minimum wage that the workshops would "cream" and serve only the less severely handicapped persons contrary to the intent of the Rehabilitation Act. What is your answer to this statement?

RESPONSE: It is essential that the issues involved be kept separate. Whether Sheltered Workshops for the Blind are required to pay minimum wages to blind and severely, multiply handicapped blind employees, or, whether they are not so required, does not mean that they will not cream in the sense it is used in this question. If the management of a given Sheltered Workshop for the Blind Program is not dedicated to carrying out the mandate of the facility, it is likely that that management will cream under the current circumstances. In fact, under the current situation, the sheltered workshop management which would be willing to take only the most productive blind employees could still do so, and yet arrange piece-rate studies so that they were able to pay these top producers less than the federally, guaranteed, minimum wage. The requirement for minimum wage payments to blind and severely, multiply handicapped blind persons would simply protect those persons who are currently being taken advantage of, if any current management is oriented toward "creaming".

The Vocational Rehabilitation Act of 1973 mandated that the Rehabilitation process serve the severely, multiply handicapped. Those Sheltered Workshop for the Blind Programs which receive federal rehabilitation money are under an accountability responsibility to the funding source to provide services to the most severely handicapped individuals. If a Sheltered Workshop for the Blind fails to live up to this mandate, in the context of the rehabilitation process, it is the responsibility of the Rehabilitation Services Administration and the State Vocational Rehabilitation Agency, not the United States Department of Labor, to intervene and take corrective action.

As I said above, I believe that the requirement to pay minimum wage has really no affect on "creaming". Beyond that, as I noted in my response to Question one, there is no reason why selecting only the top, blind production employees would be necessary. Every manufacturing environment involves a variety of skill levels to complete a production process. The most effective manufacturing system will result from putting the individuals with the right type of skill into the right type of position. The severely, multiply handicapped blind person, may well be ideally suited, given his or her other abilities, to carry out a specific job assignment.

QUESTION 11: Please state the evidence that you have that the workshops in general have not properly and adequately mainstreamed blind and other handicapped workers into private industry.

RESPONSE: Two major factors enter into the ability of a Sheltered Workshop for the Blind Program to be a positive factor in the movement of blind individuals into mainstream employment. The first is a question of adequate training for the blind individual in the alternative techniques which the blind individual needs to function independently in a sighted environment, such as travel and Braille. At Blind Industries and Services of Maryland, prior to the establishment of an aggressive Rehabilitation Training Program in 1976, the production employee receives little or no training in such vital areas. It follows, therefore, that any efforts at vocational training had a limited chance of success. Since our training programs have had several years to improve and to develop new approaches, our job placement rate has also greatly improved because the blind production employees have begun to seek opportunities in the employment mainstream with adequate skills to be successful in that environment.

The second major factor lacking in a Sheltered Workshop environment is an adequate program to instill self-confidence on the part of the blind and severely, multiply handicapped blind individual. Sheltered Workshops for the Blind are regarded by the blind, as by the public, as being facilities that provide sheltered employment for individuals who are not independent. Therefore, when the Rehabilitation Agency sends a blind individual to the sheltered workshop, it says to the blind individual that he or she has real problems and the individual tends to stop fighting the system after a prolonged period of time. If no program is available to help build self confidence and stimulate the individual, the end result is going to be a continued deterioration in attitude on the part of the blind production employee, making competitive placement a difficult possibility.

Beyond these two major factors, there is a general failure within the rehabilitation system in this country to provide adequate training and employment opportunities for the blind individuals in the mainstream of our economy. The best evidence to confirm this statement is found in figures from the Federal Department of Health, Education and Welfare which indicated that unemployment and underemployment among the labor-forced, aged blind population exceeded 70%. This figure is astonishing.

I believe that all three factors listed above relate to a problem of the professionals in the field of work with and for the blind which arises from lack of belief in the ability of blind and severely, multiply handicapped blind persons. The assumption, far too often, is that the blind person is not capable of competitive productivity, and therefore no major effort will be made until the blind person demonstrates so much ability that activity becomes necessary. In far too many cases, aggressive placement activity is not undertaken because it is assumed that the blind person is not capable of competing in the job market. Change the assumption to a positive one and you will change the nature, scope, and type of competitive placement program which the facility will undertake.

With regard to your question, the Greenly Study is the most authoritative source reflecting the lack of competitive placements developing out of the Sheltered Workshop for the Blind environment.

QUESTION 12: Do you believe the Advisory Committee should be reinstated? Please give reasons.

RESPONSE: Based on our experience, the Advisory Committee did little to contribute to the type of changes in the Sheltered Workshop Programs for the Blind which are most needed to bring the programs up to the standards of 1980. I can find no demonsterable way in which our program has been adversely affected because the Advisory Committee has not been in existence for the past several years.

Additionally, I believe there were some significant problems in the way in which the Advisory Committee was constituted. Its primary constituency was the management of the Sheltered Workshop for the Blind Programs, and therefore, its primary concern was always to deal with the management problems of the Sheltered Workshop Programs for the Blind. If the committee is reinstated, I believe its focus should be altered and that its primary membership should be made up of advocacy representatives on behalf of blind persons served by Sheltered Workshop Programs.

QUESTION 13: Do you believe Work-Activity Centers should be merged with workshops, whenever possible? Please give reasons.

RESPONSE: I believe that there are dangerous consequences which can result from involving a Work Activity Center in a Sheltered Workshop environment. I believe that such dangers would be magnified if the Sheltered Workshop was required to pay the federally, constituted minimum wage. Already, based on my experience, Work Activity Centers often become involved in work on a regular production project which should be carried out in the production unit of the Sheltered Workshop Program. The temptation is extremely great to misuse the Work Activity Center against its intended purpose.

I generally believe that the Work Activity Center needs to be given considerable attention by the handicapped persons served in those centers to determine if new directions for Work Activity Centers are not needed. There are two conflicting claims made about Work Activity Centers. One claim holds that the Work Activity Center provides an environment in which an individual with very low work skills can gain experience and, hopefully after a period of time, upgrade those skills so that he or she can enter the workshop environment. The second claim holds that the Work Activity Center provides an opportunity for an individual who is not sufficiently productive to be in a Sheltered Workshop environment to have meaningful activity. I believe that the objectives of the first claim can be met with Vocational Training Programs and with on-the-job training programs in the Sheltered Workshop environment without requiring the use of a Work Activity Center. I believe that the objective of the second claim can be better achieved through the development of meaningful recreational and continuing educational programs for individuals who, because of severe limitations, simply cannot be productive. In short, I believe that the Work Activity Center may have outlived its usefulness in the context of the needs of the handicapped in this country in the 1980's, I believe this is especially true among the blind.

The one remaining reservation which I have about Work Activity Centers is the requirement that someone made a determination that an individual is not productive, and will have extreme problems in becoming productive. It is far too easy to underestimate the potential of an individual to respond to training in a real work environment, and the damage which results from an incorrect evaluation is virtually irreversable.

QUESTION 14: Could you please explain what the nature and quantity of the unmet needs of the blind in the Baltimore area are?

RESPONSE: There is a serious need for a larger library program for the blind in the Baltimore area. Access to informational and educational sources is essential if a group of individuals are going to achieve mainstream participation in economic, social or community life.

There is a serious need for improved programs for placement of blind individuals in competitive employment. BISM has greatly increased its goals and objectives in the job placement area, but it is only one agency providing services to the adult blind in the area, and has not yet been able to receive adequate funding to develop a sufficient job placement staff. Additionally, job placement in Maryland is not regarded as a primary mandate of the organization. This unmet need goes hand in hand with the need for better community educational programs, to acquaint the public about the blind. It also goes hand in hand with the need for expanded rehabilitation training facilities in the Baltimore area to serve a larger number of blind persons.

Blind individuals who have severe additional handicaps which make it difficult to live in the community independently, receive very little attention in the current mix of programs for the blind in Maryland. There is currently no agency for the blind which is mandated to or funded for providing support services to assist these individuals in living in the community. We are currently involved in an overall study of ways to improve service to the blind in the state of Maryland, and in particular, we are working closely with several other private agencies in the Baltimore area to develop a plan to provide the needed services to enable severely, multiply handicapped blind individuals to function independently within the community and get adequate support.

Blind Industries and Services of Maryland has worked with consumer organizations within the state in making proposals to the Maryland General Assembly to reorganize services to the blind within the State to achieve solutions to these unmet needs. As yet, the question of solutions to the problems continues to be studied by the Maryland General Assembly, the Governor's Office and other involved agency officials.

Mr. Sanders' Report, August 11, 1980

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National Industries for the Blind
1455 Broad Street, Bloomfield, New Jersey 07003 • 201—338-3804

THOR W. KOLLE, JR
Chairman
ABRAM CLAUDE, JR
President
PETER K. DEEKS
Secretary-Treasurer
GEORGE J. MERTZ
Executive Vice President

August 12, 1980

Mr. Earl F. Pasbach
Staff Director, Counsel
Congress of the United States
House of Representatives
Committee on Education and Labor
Subcommittee on Labor Standards
617 House Office Building Annex #1
300 New Jersey Avenue, S.E.
Washington, D.C. 20515

Dear Mr. Pasbach:

This is in reference to your letter of July 3, 1980 requesting our comments regarding a series of questions (apparently suggested by an interested outside organization). I understand that the questions and answers are proposed to be included in the record of the Subcommittee hearing. Since the hearing was directed to Section 14 C of the Fair Labor Standards Act, and specifically to the payment of subminimum wages to the handicapped as provided for under the Act, and since many of the questions are either wholly irrelevant to or only remotely connected with that subject, we are doubtful about them.

While we have in the past and certainly will continue to cooperate with the Subcommittee, we do not feel that it is appropriate to go far beyond the scope of the hearing merely because an interested outside organization chooses to pose questions. Moreover, as you know, the General Accounting Office has investigated the Javits-Wagner-O'Day Program and NIB's operations relating to the Act. Many of the questions raised will doubtless be dealt with when the GAO report is submitted. Also, since the Department of Labor has recently publicized its decision that all blind workers having no secondary handicap, will reach the minimum wage during a four-year experimental program, (if they have not already done so), I would think that some of the questions posed might be resolved by this Department of Labor mandate.

I am attaching hereto our comments with respect to the questions. We hope that they will be helpful to the Subcommittee. Since the questions were not prenumbered, I have numbered each category and referenced the number in our comments. I trust that this will be convenient.

I wish to emphasize that the function of NIB under the Javits-Wagner-O'Day Act is limited to those responsibilities prescribed by this law and the regulations. It will be helpful to refer to the attached regulations, Title 41, Chapter 51, Part 3, Section 3.2 in order to understand our role as the Central Nonprofit Agency designated by The Committee for Purchase from the Blind and Other Severely Handicapped to represent workshops for the blind. NIB provides a variety of other services to 103 associated workshops which not only assist them in better providing goods and services to the Federal Government, but, equally important, assist them in the entire area of direct rehabilitation and supportive vocational services to the blind and multihandicapped blind persons.

NIB is pleased that an increasing proportion of our budget is used for providing such services which directly benefit the workers of the individual workshops. All of these ancillary services results in a higher functioning of workshops and expends their purpose and desire to best serve the interests of the blind people in their communities.

I would appreciate it if this letter would also be included in the record of the hearing.

Sincerely,

George J. Mertz
Executive Vice President

GJM:mjs

Enclosures

QUESTIONS FOR : GEORGE MERTZ
NATIONAL ASSOCIATION FOR THE BLIND

1.) Please provide the Subcommittee with the data listed below concerning NIB's financial and related operations:

a. A copy of the most recently approved and current operating budget for NIB.

b. A copy of NIB's internal operating statement for the most recent accounting period (monthly or quarterly, during the current fiscal year), showing income and expenditures by budget category with totals shown from the beginning of the fiscal year to date.

c. The latest audited financial statement of NIB, showing income and expenses and changes in fund balances.

d. A detailed breakdown of NIB's current financial holdings, describing current assets and the purposes for which these funds can be used.

2.) What are the sources of revenue for NIB?

How much was derived from each source during fiscal 1979?
What percentage of NIB's income during 1979 came as the result of sales from workshops for the blind?
Which organization or agencies (public and private) made grants to NIB during fiscal 1979 and what was the amount and purpose for each grant?

3.) Describe NIB's workforce.

How many total employees are there?

3.) (continued)

Where are they located?

How many are blind?

Of the blind employees, what are their jobs, and how long has each worked at NIB?

How many NIB employees come from careers in the armed services?

What positions do they hold at NIB?

What was the military rank of each?

4.) Does NIB provide legal assistance or support (financial and otherwise) to workshops?

What is the nature of NIB's involvement in proceedings concerning collective bargaining at the Cincinnati Association for the Blind?

What law firm represents NIB in these proceedings?

What are the legal expenses to date?

What is the source of funds to meet these legal expenses?

5.) Item 9 of NIB's fact sheet for fiscal 1979 states that the average wage paid to production employees in the NIB shops was $3.24 per hour. What was the average wage paid to production employees who were blind?

What was the average wage paid to production employees who were sighted and without handicaps?

6.) NIB's fiscal 1979 fact sheet reports that 5,035 legally blind persons participated in direct labor manufacturing operations in the associated workshops, while, during the same period, 45,000 blind persons received services from agencies operating NIB shops.

best copy available

6.) (continued)

How much workshop revenue was spent on providing services to these 45,000 legally blind individuals?

Was workshops revenues used to provide services to individuals who were not at the same time employees of workshops and if so, how much revenue was used in this manner?

7.) What limitations are there, if any, on the use of workshop revenue by multi-service agencies?

7.)

Regarding the NIB sponsored conference held in San Diego early in May of this year, we have heard charges that the balance of the meeting related to a strategy session on how to combat the current dissatisfaction among blind workers and their representatives.

What was the publicly stated purpose for this conference? Please furnish a copy of the printed program. Was a transcript made? If so, please furnish the Subcommittee with a copy of such transcript.

Was a tape recording kept? If so, please furnish a copy of such tape recording.

8.)

Does NIB consult with or advise workshops regarding collective bargaining?

In general, what is the nature of NIB's advice?

How many workshops have been assisted by NIB in this regard during the last two fiscal years?

How much time has been involved?

9.) In your experience, what are some of the steps which management can take to maximize productivity for each individual production employee in the work force?

Do you think management skill is a factor in determining worker productivity, and to what extent should this be considered significant?

Should the law require a giben standard of management performance for obtaining Section 14(c) certificates?

How can we assure production employees that it is fair to pay them strictly on the basis of their speed and quality of work, when those employees do not control several factors such as specific production methods, type of equipment used, reliability of equipment, and so on?

10.) The Subcommittee has received testimony that there are serious flaws in the productivity based system which is used to determine proper wage rates under Section 14 (c), and we are 60 minutes, where workers on a job at the Industrial Home for the Blind were found to have been paid wages lower than those they were entitled to.

In view of these circumstances, what guarantees are there that the wages paid in sheltered workshops are equitable and in accordance with what the law allows? What additional safeguards, if any, should be provided?

11.) Does NIB assist workshops in establishing piece rate standards? Are these standards based on 100% of normal productivity for sighted workers?

11.) (continued)

What method does NIB use to determine the proper piece rate for any given job?

Are similar industries with similar work surveyed?

What is the extent and type of data required by NIB to justify a piece rate?

What happens if similar work is not done or cannot be found?

To what extent are differences in production method, type of equipment, quality of equipment and organization of production lines taken into account?

12.) Does NIB perform accreditation of agencies for the blind which operate workshops?

Does NIB bear any portion of the costs of accreditation, for example, does NIB pay any costs related to on-site reviews of agencies operating workshops?

How much was spent on this activity during the last fiscal year?

How much is projected for the current fiscal year?

What is the source of funds from which such expenses are drawn?

13.) Does NIB provide any services directly to blind production employees?

What does NIB do to explain the subminimum wage program to blind production workers?

Are annual seminars conducted for blind shopworkers and their representatives?

Does NIB have a program to make blind people aware of their rights under Section 14(c)? Please describe this program if it exists?

13.) (continued)

How much time (in terms of person years, total years, days, or some other standard of measurement) dis NIB devote to technical assistance as a direct service to the management of workshops during fiscal year 1979?

How much time, using the same standard of measurement, was devoted to direct technical assistance to individual shopworkers or group of them?

14.) Reports show that the productivity of American workers is declining, yet wages continue to increase.

Do you believe it is fair for us to maintain a closer relationship between wages and productivity ratings for handicapped and blind workers while in the work force at large the relationship between actual productivity and real wages becomes more distant?

15.) Define, more precisely, the term "multiply handicapped."

What disabilities are involved?

To what extent must a disability exist in order for it to be counted as an additional handicap?

Might a person's age be one of the factors?

Would you consider a blind person who is also age 55 or over (but with no disability order than blindness) to be multiply handicapped?

Is it necessary for a disability to have an impact on worker productivity in order to be counted as a handicap?

How do you determine the relationship between a disability and worker productivity?

16.) Describe the formal relationship between NIB and the Committee for Purchase from the Blind and Severely Handicapped.

16.) (continued)

Do NIB Directors, staff, or representatives of Associated Workshops hold seats on the Committee?

What is the formal relationship between NIB and the General Council of Workshops for the Blind?

Why are there so many Committees and councils?

How much red tape and administrative cost does this network of interrelated organizations add?

17.) What services does NIB provide to its associated workshops? State the total fiscal year 1979 cost for each service listed. Indicate the amount of effort (in terms of person years or some other standard of measurement) devoted to each service during the fiscal year 1979.

Is financial assistance provided to workshops?

Are loans made to workshops?

Provide a list of workshops which receive financial assistance or loans from NIB during the past two fiscal years?

What was the purpose of the assistance of loan in each case?

What is NIB's criteria for awarding financial assistance?

What is the criteria for loans?

What is the interest rate on NIB loans for workshops?

COMMENTS WITH REGARD TO
SUPPLEMENTAL QUESTIONS SUBMITTED TO
NATIONAL INDUSTRIES FOR THE BLIND

QUESTION 1

The General Accounting Office has recently completed an in-depth study of the entire NIB program, including our financial picture, and it is our understanding that this report will be submitted to the Subcommittee for their review. We believe that much of the information requested in Question 1 will be addressed in their report. To whatever extent Question 1 may be indirectly or remotely pertinent to Section 14 C of the Fair Labor Standards Act, the GAO report should be consulted. Beyond this, we do not feel that internal financial data is germene. In an effort to be helpful, we are enclosing a paper entitled "An Introduction to National Industries for the Blind" which will give the Subcommittee an overview of each NIB department and the type of services we provide our associated workshops. A copy of our Annual Report of workshops and NIB activities for the past 3 years is also attached.

QUESTION 2

Under the Javits-Wagner-O'Day Act, the Committee for Purchase from the Blind and Other Severely Handicapped approves the fee that is charged the workshop by the central nonprofit agency. NIB, as the central nonprofit agency representing blind workshops participating under the Act, receives a 4 percent fee on Government business and an additional fee up to 6 percent on Military store sales. Military store sales require in-house sales servicing and shelf-stocking, thereby creating the additional cost. NIB's entire income during 1979 was derived through the sale of products manufactured by workshops for the blind under the Javits-Wagner-O'Day Program.

Although NIB assists the shops in developing their sales program in the commercial marketplace, NIB receives no income from workshops in the sale of these products to the commercial market or in any subcontract work acquired for the workshop by NIB.

NIB did not receive grants from any public or private organization or agency during 1979.

QUESTION 3

NIB's workforce is made up of the following:

- Rehabilitation Specialists
- Industrial Engineers
- Manufacturing Engineers
- Marketing and Sales Specialists
- Contract Administration Personnel
- Management
- Administrative and Office Personnel
- Quality Control Engineers

- Product Development and Technical Engineering Staff
- Subcontract Procurement Specialists
- Warehousemen

NIB's workforce is located at:

- 1455 Broad Street, Bloomfield, New Jersey 07003 -- 25 employees
- 3530 Moncure Avenue, Falls Church, Virginia 22041 -- 22 employees
- 10679 Midwest Industrial Boulevard, St. Louis, Missouri 63132 -- 12 employees
- 320 Fulton Avenue, Hempstead, New York 11550 -- 5 employees
- 6905 Hermosa Circle, Buena Park, California 90620 -- 3 employees

NIB does not discriminate in our employment practices and has on our staff veterans, blind (who make up 3 percent of our workforce), other handicapped, and women in management. The balance of employment specifics covering job functions and past employment history, I do not believe has a bearing on Section 14 C.

QUESTION 4

NIB, as part of our service program, is responsive to the requests for assistance by our workshops. We provide information on current developments that would be of concern to those in our industry. Such information could be legislative matters, legal matters confronting handicapped workshops, or any other advice or assistance that workshops might request of NIB. Apart from matters which are already of public record (and need not be repeated) such as the position taken by NIB in public proceedings and the name of its law firm, to delve into specifics relating to NIB's legal advice and legal expenses is not only irrelevant to Section 14 C, but would be an unwarranted intrusion into private and confidential matters.

QUESTION 5

$3.24 was the average wage paid blind and multihandicapped blind persons in the regular workshop as reported by workshops in Fiscal 1979. This figure does not include sighted production workers; therefore, the answer to the question is $3.24 per hour.

NIB does not summarize from the information submitted by workshops, the wages paid production workers who are sighted and without handicaps.

QUESTION 6

NIB, as the central nonprofit agency representing blind workshops under the Javits-Wagner-O'Day Act, is required to collect information once each year on sales, wages, hours, and number of blind employed in workshops participating under the Act. We have no legal authority to require, and we do not have the other detailed financial information from the workshops that would be needed to answer these questions.

QUESTION 7

A copy of The General Council of Workshops for the Blind's program covering the sales conference held in May 1980 is enclosed. The thrust of these annual sales conferences is to discuss ways of increasing sales in order to increase blind employment opportunities. As can be seen from the program, the entire session is devoted to learning about new products that are appropriate for manufacture by the blind, how to enter into various sales markets, learning new sales procedures, and upgrading present sales efforts in order to enhance workshop employment opportunities. Raw material and component suppliers are heavily involved in the program and take an active interest in all sessions. To the best of our knowledge, no transcript or tape recordings were made of the sales program. This meeting is for learning and exchanging ideas.

QUESTION 8

NIB, as a service organization, is responsive to the requests of our 103 associated workshops. When asked, we provide workshops with any information available relevant to their particular needs. We keep no individual record by workshop as to the type of assistance required or how much time is involved in the services provided.

QUESTION 9

In my experience, continuing steps that management might take to maximize individual productivity could be as follows:

- Better light and color discrimination testing for each blind person to provide the best light and color combination for each blind person with residual vision at the work site.
- Employment of an experienced industrial engineer in each workshop to determine better methods, job layout, improved work analysis for each job performed by blind workers to improve worker efficiency.
- Evaluating individual's strong abilities and matching them to the job.
- Evaluating vocational weaknesses and concentrating training to eliminate such weaknesses.
- Providing stops and fixtures on the job.
- Increasing automation of operations.
- Adapting devices to overcome individual handicaps.
- Providing incentive systems.
- Periodic meetings with employees on a regular basis.
- Breaking down operations to simpler tasks within the capabilities of the individual.

- Continuous training and retraining.
- Reporting worker progress or lack of it on a regularly scheduled basis.

I believe line foremen and production supervisors should develop increasing skills in dealing with the day-to-day problems of assisting workers to become more productive. Special fixturing of equipment to adapt it to the blind workers' safety and production capability is most important in the managing of the workshop. Finding the right job for the maximum efficiency and productivity of the individual is also an important factor of management.

I personally do not see how there could be a law setting a standard of management performance in order to obtain a certificate under Section 14 C. What would be the basis of the measurement -- a bottom line net income? If so, then limited blind people would not be considered, forcing the workshop manager to hire top producers. No proper criteria of measurement could be established. I believe the successful workshop manager is one who can create jobs for all blind individuals in the community, no matter what their productive capabilities might be, and still try to break even. Production rates are based on the job as it is being done in that particular shop, not as it is being done in regular industry. It is the wage rate that must be the same as that found in regular local industries. An example:

- Regular industry uses a semi-automatic method yielding a production rate of 400 pieces per hour and the wage rate is $4.00. The piece rate would be 1 cent each, and the worker's pay would be $4.00 for the 400 pieces produced that hour.
- A workshop does the same job, but chooses to do it by hand, thus lowering the production rate to 100 pieces per hour. At the prevailing wage rate of $4.00 per hour (same skill level), the piece rate for this operation is 4 cents a piece and the worker's pay is $4.00 for the 100 pieces produced that hour.
- The same shop decides to mechanize the job, and devises a method that produces 600 pieces per hour. At the prevailing wage rate of $4.00 per hour (same skill level), the piece rate becomes 67 cents per piece, and the worker's pay would be $4.00 for the 600 pieces produced that hour.

We can assure workers that their pay is fair by showing them that the piece rate is based on the specific method they are required to perform and that if the method is changed, the production and piece rates will be changed.

QUESTION 10

As the question states, "60 Minutes" pointed out an incident at The Industrial Home for the Blind. We have been given to understand by IHB's management that this specific situation was corrected and back wages paid.

Each shop associated with NIB does its best to maintain "equitable rates," and the shops welcome and encourage increased monitoring by the Wages and Hours Division of the Department of Labor and are ready to cooperate with them in every way to assure rates of pay commensurate with prevailing wage rates and effective time studies.

QUESTION 11

As one of our services, NIB assists shops indirectly in setting piece rate standards through the following:

- Lectures and classes on production rates, (MTM and Time Study) wage rates, and piece rates.
- Individual consultation in workshops to train personnel.
- Manufacturing Guides are provided to the shops on certain popular items. These guides consist of the following:
    - "Operations Breakdowns" describing in detail a particular method engineered by NIB with the held of several shops along with the expected production rate. If the workshop chooses to use this method, they may use the production rate. If they use any other method, they must determine the production rate for that method.
    - "Manufacturing Recommendations" offer suggestions and alternate methods.
    - "Cost Analysis" showing the details of the material, the production rates from the Operation Breakdowns, national average wage rates as of that time, the resultant cost per piece and applicable overhead and selling expense factors.

NIB standards are based on average sighted worker's performance.

NIB uses Methods Time Measurement (MTM) to determine production rates and a consensus of Employment Service, Job Bank, DOL Publications, Trade Associations and Industry to determine national average wage rates. The wage rate for a particular type of work is divided by the production rate for the operation to obtain the piece rate.

Similar industries with similar work are often surveyed for information on wage rates. On occasion, we are offered an idea for a method of operation, but piece rates from industry are very seldom used since the method is very seldom exactly the same as in the workshop.

It does not matter if similar work cannot be found in determining production rates since the time study is made of the operations as it exists in the workshop. If wage rates cannot be found for a particular operation, we use a rate for an operation requiring similar skill levels and conditions.

Differences in methods, equipment, and organization are taken into account for every shop, and if different methods are used within a shop to adapt to the capabilities of individuals, these are also taken into account. A separate standard must be established for each method no matter how slight the difference may be. At NIB, we provide one good standardized method and its resultant production rate. If a workshop chooses another method, a separate standard for that method must be developed.

QUESTION 12

NIB does not perform accreditation of agencies for the blind which operate workshops. If an agency applies for accreditation and such agency is associated with NIB, NIB upon invitation from NAC will provide one person to the on-site team to primarily review the operations of the workshop. NIB will pay for the travel expense for this one person. The "on site" inspection of an associated workshop by an NIB staff person also acts as a regular visit to that workshop. The cost of this service which NIB bears is one that would normally be borne by the workshop. Thus, this is an additional service to the workshop.

QUESTION 13

The regulations under the Javits-Wagner-O'Day Act do not authorize NIB to provide "services directly " to blind production employees; however, all of NIB's services to the workshop have a direct relationship to the blind employed.

Explaining the subminimum wage program to the blind worker is handled by the individual workshop.

NIB does not conduct annual seminars for blind workshop employees.

Explaining Section 14 C to their blind workers is a matter for each individual workshop.

One of NIB's basic purposes is to upgrade employment and rehabilitation possibilities for blind and multihandicapped blind persons. Thus, the bulk of the time of NIB professional personnel is spent in a variety of technical assistance efforts to improve every facet of workshop operation for the benefit of those blind people being served.

By this direct intervention with managerial staff, benefits accrue to the employed blind persons through improved and more efficient methods of operations. Managerial personnel in workshops are expected to apply their expertise to the betterment of the performance and the welfare of blind persons. We serve management and management utilizes our service in serving blind persons.

QUESTION 14

It must be understood that in regular industry, the nonproductive worker is terminated if he does not meet minimum production requirements. However, workshops in general keep the low productive worker and do not have the funds to give away in nonproductive earnings. Workshops, in order to stay competitive, cannot arbitrarily raise the price of their products to recover the cost of such supplement. Therefore, I believe that productivity and wages bear a much closer relationship in the workshop than in competitive industry because of the severe limitations of the people served by the workshop.

QUESTION 15

Our interpretation of the term "multiple handicapped" not "multiply handicapped" is as follows:

- A handicap in addition to blindness which adds to the difficulty of competitive employment or even employment in the special workshop; or
- Two or more handicaps, each of which presents a barrier to employment; or
- A secondary condition which when combined with blindness compounds the disabling effects of blindness.

The Certificate of Vision card attached is presently in use by NIB.

Because of the deteriorating conditions associated with the aging process, a person's age is a factor. In reference to whether age 55 and blindness are considered multiple handicaps, please refer to the following:

- Public Law 95-60 "Rehabilitation Comprehensive Services and Developmental Disabilities Amendments of 1978" Page 92, STAP, 3000 Section D.
- "A Survey of the Employment of Older Workers (1965)" by the State of California, Department of Employment and Citizens Advisory Committee on Aging, Page 96.
- "The Vocational Adjustment of the Older Disabled Worker, A Selective Review of the Recent Literature" by Herbert Rusalem, Ed.D.
- "Services to Older Workers by the Public Employment Service," May 1975.
- Federal Register Volume 43 #229, Tuesday, November 28, 1978, Page 55350.

Many multihandicapped blind persons produce quite well in the special shop where they are provided with the fulfillment of their individual vocational needs on an ongoing basis. There are many others where workshops may be unable to provide the individualized type of job necessary for greater productivity but continually strive toward this goal. Much of the additional expense of a workshop revolves around the need for services and service personnel to serve such persons, costs which are not part of the competitive industry budget.

I do not understand the question "How do you determine the relationship between a disability and worker productivity?" Without regard to the disability, workshops attempt to provide every assistance to make the blind person as productive as possible.

QUESTION 16

A copy of the Javits-Wagner-O'Day Act and the Federal Regulations are attached that will explain the formal relationship between NIB and The Committee for Purchase from the Blind and Other Severely Handicapped. We do not believe the remaining questions are relevant to Section 14 C.

QUESTION 17

Please refer to the attached paper on "An Introduction to National Industries for the Blind" for details of services provided associated workshops. All NIB efforts are devoted to providing direct services to our associated workshops.

On occasions, to insure the initiation or continuation of employment of blind people in our associated workshops, NIB will consider financial assistance to our shops. No interest is charged workshops by NIB when such financial assistance is provided.

PART 3—CENTRAL NONPROFIT AGENCIES

§3.1 General.

Under the provisions of section 2(c) of the Act, the following are designated central nonprofit agencies:

(a) To represent the workshops for the blind: National Industries for the Blind.

(b) To represent the workshops for other severely handicapped: National Industries for the Severely Handicapped.

§3.2 Responsibilities.

Each central nonprofit agency for its participating workshops shall:

(a) Represent them in dealing with the Committee under the Act.

(b) Evaluate the qualifications and capabilities of its workshops and provide the Committee with pertinent data concerning its workshops, their status as qualified nonprofit agencies, their manufacturing or service capabilities, and other information required by the Committee.

(c) Recommend to the Committee, with appropriate justification including recommended prices, suitable commodities or services for procurement from its workshops.

(d) Distribute within the policy guidelines of the Committee (by direct allocation, subcontract, or any other means) orders from Government activities among its workshops.

(e) Maintain the necessary records and data on its workshops to enable it to allocate orders equitably.

(f) Supervise its workshops to insure contract compliance in the production of a commodity or performance of a service.

(g) As market conditions change, recommend price changes with appropriate justification for assigned commodities or services on the procurement list.

(h) Monitor and inspect the activities of its workshops to insure compliance with the Act and appropriate regulations.

(i) When authorized by the Committee, enter into contracts with Federal procuring activities for the furnishing of commodities and services provided by its workshops.

(j) Submit to the Committee a comprehensive annual report for each fiscal year concerning the operations of its workshops under the Act, including significant accomplishments and developments, and such other details as the central nonprofit agency considers appropriate or the Committee may request. This report will be submitted by December 15 covering the fiscal year ending the preceding September 30.

(k) Review and forward to the Committee by December 15 the annual workshop certification for each of its participating workshops covering the fiscal year ending the preceding September 30.

§3.3 Assignment of commodity or service.

(a) The central nonprofit agency first proposing a service for possible addition to the Procurement List shall be assigned the service.

(b) Within 60 days after notification by the Committee that a commodity has been proposed for possible addition to the Procurement List, the Federal Prison Industries, Inc., and the National Industries for the Blind (for commodities proposed by the National Industries for the Severely Handicapped) shall notify the Committee of their decisions regarding the exercise or waiver of priority on the proposed commodity.

(c) When the Federal Prison Industries, Inc. exercises its priority for a commodity proposed by the National Industries for the Blind or the National Industries for the Severely Handicapped for possible addition to the Procurement List, the commodity may be assigned to the National Industries for the Blind or the National Industries for the Severely Handicapped in accordance with (d) or (e) below. However, procurement under the Act shall be limited to that portion of the Government's requirement for the commodity which is not available from the Federal Prison Industries, Inc.

(d) When the National Industries for the Blind proposes a commodity for possible addition to the Procurement List, it shall be assigned to the National Industries for the Blind.

(e) When the National Industries for the Severely Handicapped proposes a commodity for possible addition to the Procurement List, it shall be assigned to the National Industries for the Severely Handicapped, unless the National Industries for the Blind exercises the priority accorded to the workshops for the blind, in which case the commodity shall be assigned to the National Industries for the Blind.

(f) When the National Industries for the Blind exercises the priority of the workshops for the blind for a commodity which was initially proposed by the National Industries for the Severely Handicapped, the National Industries for the Blind shall complete the essential steps to place the commodity on the Procurement List within nine months after assignment. If the National Industries for the Blind has not completed these steps within that time period, the Committee shall reassign the commodity to the National Industries for the Severely Handicapped. However, the nine-month period may be extended for a reasonable period of time when the National Industries for the Blind has been delayed by conditions beyond its control.

§3.4 Distribution of orders.

Central nonprofit agencies shall distribute orders from the Government only to workshops which the Committee has approved to produce the specific commodity or to perform the particular service. When the Committee has approved two or more workshops to produce a specific commodity or perform a particular service, the central nonprofit agency shall distribute orders among those workshops in a fair and equitable manner.

§3.5 Fees.

The fees the central nonprofit agency shall charge workshops for facilitating participation by their workshops under the Act shall not exceed the rate approved by the Committee.

Public Law 92-28
92nd Congress, S. 557
June 23, 1971

An Act

To amend the Wagner-O'Day Act to extend its provisions relating to Government procurement of commodities produced by the blind to commodities produced by other severely handicapped individuals, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to create a Committee on Purchases of Blind-made Products, and for other purposes", approved June 25, 1938 (52 Stat. 1196; 41 U.S.C. 46-48), is amended to read as follows:

Wagner-O'Day Act, amendment.

"ESTABLISHMENT OF COMMITTEE

"SECTION 1. (a) ESTABLISHMENT.—There is established a committee to be known as the Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped (hereafter in this Act referred to as the 'Committee'). The Committee shall be composed of fourteen members appointed as follows:

Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped.

"(1) The President shall appoint as a member one officer or employee from each of the following: The Department of Agriculture, the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Health, Education, and Welfare, the Department of Commerce, the Veterans' Administration, the Department of Justice, the Department of Labor, and the General Services Administration. The head of each such department and agency shall nominate one officer or employee in his department or agency for appointment under this paragraph.

"(2)(A) The President shall appoint one member from persons who are not officers or employees of the Government and who are conversant with the problems incident to the employment of the blind and other severely handicapped individuals.

"(B) The President shall appoint one member from persons who are not officers or employees of the Government and who represent blind individuals employed in qualified nonprofit agencies for the blind.

"(C) The President shall appoint one member from persons who are not officers or employees of the Government and who represent severely handicapped individuals (other than blind individuals) employed in qualified nonprofit agencies for other severely handicapped individuals.

"(b) VACANCY.—A vacancy in the membership of the Committee shall be filled in the manner in which the original appointment was made.

"(c) CHAIRMAN.—The members of the Committee shall elect one of their number to be Chairman.

"(d) TERMS.—

"(1) Except as provided in paragraphs (2) and (3), members appointed under paragraph (2) of subsection (a) shall be appointed for terms of five years. Any member appointed to the Committee under such paragraph may be reappointed to the Committee if he meets the qualifications prescribed by that paragraph.

"(2) Of the members first appointed under paragraph (2) of subsection (a)—

"(A) one shall be appointed for a term of three years,
"(B) one shall be appointed for a term of four years, and
"(C) one shall be appointed for a term of five years,

as designated by the President at the time of appointment.

"(3) Any member appointed under paragraph (2) of subsection (a) to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member appointed under such paragraph may serve after the expiration of his term until his successor has taken office.

85 STAT. 78

85 STAT. 79

"(e) PAY AND TRAVEL EXPENSES.—

"(1) Except as provided in paragraph (2), members of the Committee shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of services for the Committee.

5 USC 5332 note.

"(2) Members of the Committee who are officers or employees of the Government shall receive no additional pay on account of their service on the Committee.

"(3) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

80 Stat. 499.

"(f) STAFF.—

"(1) Subject to such rules as may be adopted by the Committee, the Chairman may appoint and fix the pay of such personnel as the Committee determines are necessary to assist it in carrying out its duties and powers under this Act.

"(2) Upon request of the Committee, the head of any entity of the Government is authorized to detail, on a reimbursable basis, any of the personnel of such entity to the Committee to assist it in carrying out its duties and powers under this Act.

"(3) The staff of the Committee appointed under paragraph (1) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

80 Stat. 378.
5 USC 101 *et seq.*
5 USC 5101, 5331.

"(g) OBTAINING OFFICIAL DATA.—The Committee may secure directly from any entity of the Government information necessary to enable it to carry out this Act. Upon request of the Chairman of the Committee, the head of such Government entity shall furnish such information to the Committee.

GSA, reimbursable services.

"(h) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Committee on a reimbursable basis such administrative support services as the Committee may request.

Report to President and Congress.

"(i) ANNUAL REPORT.—The Committee shall, not later than September 30 of each year, transmit to the President and to the Congress a report which shall include the names of the Committee members serving in the preceding fiscal year, the dates of Committee meetings in that year, a description of its activities under this Act in that year, and any recommendations for changes in this Act which it determines are necessary.

"DUTIES AND POWERS OF THE COMMITTEE

Publication in Federal Register.

"SEC. 2. (a)(1) The Committee shall establish and publish in the Federal Register a list (hereafter in this Act referred to as the 'procurement list') of—

Procurement list, commodities and services.

"(A) the commodities produced by any qualified nonprofit agency for the blind or by any qualified nonprofit agency for other severely handicapped, and

"(B) the services provided by any such agency,

which the Committee determines are suitable for procurement by the Government pursuant to this Act. Such list shall be established and published in the Federal Register before the expiration of the thirty-day period beginning on the effective date of this paragraph and shall initially consist of the commodities contained, on such date, in the schedule of blind-made products issued by the former Committee on Purchases of Blind-Made Products under its regulations.

"(2) The Committee may, by rule made in accordance with the requirements of subsections (b), (c), (d), and (e) of section 553 of title 5, United States Code, add to and remove from the procurement list commodities so produced and services so provided.

80 Stat. 383.

Fair market price.

"(b) The Committee shall determine the fair market price of commodities and services which are contained on the procurement list and which are offered for sale to the Government by any qualified nonprofit agency for the blind or any such agency for other severely handicapped. The Committee shall also revise from time to time in accordance with changing market conditions its price determinations with respect to such commodities and services.

Central nonprofit agency, designation.

"(c) The Committee shall designate a central nonprofit agency or agencies to facilitate the distribution (by direct allocation, subcontract, or any other means) of orders of the Government for commodities and services on the procurement list among qualified nonprofit agencies for the blind or such agencies for other severely handicapped.

Rules and regulations.

"(d)(1) The Committee may make rules and regulations regarding (A) specifications for commodities and services on the procurement list, (B) the time of their delivery, and (C) such other matters as may be necessary to carry out the purposes of this Act.

Blind-made products, priority.

"(2) The Committee shall prescribe regulations providing that—

"(A) in the purchase by the Government of commodities produced and offered for sale by qualified nonprofit agencies for the blind or such agencies for other severely handicapped, priority shall be accorded to commodities produced and offered for sale by qualified nonprofit agencies for the blind, and

"(B) in the purchase by the Government of services offered by nonprofit agencies for the blind or such agencies for other severely handicapped, priority shall, until the end of the calendar year ending December 31, 1976, be accorded to services offered for sale by qualified nonprofit agencies for the blind.

Problems and production methods, study and evaluation.

"(e) The Committee shall make a continuing study and evaluation of its activities under this Act for the purpose of assuring effective and efficient administration of this Act. The Committee may study (on its own or in cooperation with other public or nonprofit private agencies) (1) problems related to the employment of the blind and of other severely handicapped individuals, and (2) the development and adaptation of production methods which would enable a greater utilization of the blind and other severely handicapped individuals.

"PROCUREMENT REQUIREMENTS FOR THE GOVERNMENT

"SEC. 3. If any entity of the Government intends to procure any commodity or service on the procurement list, that entity shall, in accordance with rules and regulations of the Committee, procure such commodity or service, at the price established by the Committee, from a qualified nonprofit agency for the blind or such an agency for other severely handicapped if the commodity or service is available within the period required by that Government entity; except that this section shall not apply with respect to the procurement of any commodity which is available for procurement from an industry established under chapter 307 of title 18, United States Code, and which, under section 4124 of such title, is required to be procured from such industry.

62 Stat. 851.
18 USC 4121.
65 Stat. 723.

"AUDIT

"SEC. 4. The Comptroller General of the United States, or any of his duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and other records of the Committee and of each agency designated by the Committee under section 2(c). This section shall also apply to any qualified nonprofit agency for the blind and any such agency for other severely handicapped which have sold commodities or services under this Act but only with respect to the books, documents, papers, and other records of such agency which relate to its activities in a fiscal year in which a sale was made under this Act.

"DEFINITIONS

"SEC. 5. For purposes of this Act—

"(1) The term 'blind' refers to an individual or class of individuals whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

"(2) The terms 'other severely handicapped' and 'severely handicapped individuals' mean an individual or class of individuals under a physical or mental disability, other than blindness, which (according to criteria established by the Committee after consultation with appropriate entities of the Government and taking into account the views of non-Government entities representing the handicapped) constitutes a substantial handicap to employment and is of such a nature as to prevent the individual under such disability from currently engaging in normal competitive employment.

"(3) The term 'qualified nonprofit agency for the blind' means an agency—

"(A) organized under the laws of the United States or of any State, operated in the interest of blind individuals, and the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

"(B) which complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

"(C) which in the production of commodities and in the provision of services (whether or not the commodities or services are procured under this Act) during the fiscal year employs blind individuals for not less than 75 per centum of the man-hours of direct labor required for the production or provision of the commodities or services.

"(4) The term 'qualified nonprofit agency for other severely handicapped' means an agency—

"(A) organized under the laws of the United States or of any State, operated in the interest of severely handicapped individuals who are not blind, and the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

"(B) which complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; and

"(C) which in the production of commodities and in the provision of services (whether or not the commodities or services are procured under this Act) during the fiscal year employs blind or other severely handicapped individuals for not less than 75 per centum of the man-hours of direct labor required for the production or provision of the commodities or services.

"(6) The term 'direct labor' includes all work required for preparation, processing, and packing, but not supervision, administration, inspection, and shipping.

"(7) The term 'fiscal year' means the twelve-month period beginning on July 1 of each year.

"(8) The terms 'Government' and 'entity of the Government' include any entity of the legislative branch or the judicial branch, any executive agency or military department (as such agency and department are respectively defined by sections 102 and 105 of title 5, United States Code), the United States Postal Service, and any nonappropriated fund instrumentality under the jurisdiction of the Armed Forces. 80 Stat. 378, 379.

"(9) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 6. There are authorized to be appropriated to the Committee to carry out this Act $200,000 each for the fiscal year ending June 30, 1972, and the next two succeeding fiscal years."

Effective date.

SEC. 2. The amendment made by the first section of this Act shall take effect on the first day of the first month which begins more than thirty days after the date of enactment of this Act.

Approved June 23, 1971.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 92-228 accompanying H. R. 8011 (Comm. on
Government Operations).
SENATE REPORT No. 92-41 (Comm. on Labor and Public Welfare).
CONGRESSIONAL RECORD, Vol. 117 (1971):
Mar. 25, considered and passed Senate.
June 7, considered and passed House, amended, in lieu of
H. R. 8011.
June 9, Senate concurred in House amendment.

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REGULATIONS

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

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TITLE 41

Chapter 51

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

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PART 1—GENERAL

§1.1 Policy.

(a) The Committee for Purchase from the Blind and Other Severely Handicapped was established by Public Law 92-28, June 23, 1971 (85 Stat. 77, 41 U.S.C. 46-48) (hereinafter the Act) for the purpose of directing the procurement of selected commodities and services by the Federal Government to qualified workshops serving blind and other severely handicapped individuals with the objective of increasing the employment opportunities for these individuals. The Committee is required to establish and publish in the Federal Register a procurement list of:

(1) Commodities produced by any qualified nonprofit agency for the blind or by any qualified nonprofit agency for other severely handicapped, and

(2) The services provided by any such agency,

which the Committee determines are suitable for procurement by the Government pursuant to the Act.

(b) The Act further provides that any entity of the Government which intends to procure any commodity or service on the procurement list, shall procure such commodity or service, at the price established by the Committee, from a qualified nonprofit agency for the blind or such agency for the other severely handicapped if the commodity or service is available within the normal period required by that Government entity. However, this requirement shall not apply to the procurement of any commodity which is available from Federal Prison Industries, Inc.

§1.2 Definitions.

As used in this chapter:

(a) "Committee" means the Committee for Purchase from the Blind and Other Severely Handicapped.

(b) "Direct labor" means all work required for preparation, processing, and packing of a commodity or work directly related to the performance of a service, but not supervision, administration, inspection or shipping.

(c) "Fiscal Year" means the 12-month period beginning on October 1 of each year.

(d) "Government" and "entity of the Government" means any entity of the legislative branch or the judicial branch, any executive agency or military department, the U. S. Postal Service, and any nonappropriated fund instrumentality under the jurisdiction of the Armed Forces.

(e) "State" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(f) "Blind" means an individual or class of individuals whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200 is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle no greater than 20°.

(g) "Other severely handicapped individual" means any person (other than a blind person) who is so severely incapacitated by any physical or mental disability that he cannot engage in normal competitive employment because of such disability.

(1) Some specific categories of severely handicapped persons include those disabled by the following:

(i) Spinal cord injury;

(ii) Deafness;

(iii) Muscular dystrophy (adults);

(iv) Multiple sclerosis;

(v) Developmental disability or other neurological disorders;

(vi) Severe orthopedic handicaps;

(vii) Multiple disabilities;

(viii) Severe personality or behavioral disorders including psychoses and neuroses;

(ix) Severe pulmonary disease;

(x) Severe cardiac disorders.

The foregoing represent examples only and should not be considered exclusive.

(2) A severely handicapped person who is able to engage in normal competitive employment because he has overcome his handicap or his condition has been substantially corrected is not an "other severely handicapped individual" within the meaning of this definition.

(3) Capability for normal competitive employment shall be determined from information developed by an ongoing placement program conducted by the workshop. Such placement program shall include at least (i) a preadmission evaluation and annual re-

view to determine each worker's capability for normal competitive employment, and (ii) maintenance of liaison with appropriate community services for the placement in such employment of any of its workers who may qualify for such placement.

(h) "Qualified nonprofit agency for the blind" (hereinafter workshop for the blind) means an agency organized under the laws of the United States or of any State, operated in the interest of blind individuals, and the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual; which complies with applicable occupational health and safety standards prescribed by the Secretary of Labor; and which in the production of commodities and the provision of services (whether or not the commodities or services are procured under these regulations) during the fiscal year employs blind individuals for not less than 75 percent of the man-hours of direct labor required for the production or provision of the commodities or services.

(i) "Qualified nonprofit agency for other severely handicapped" (hereinafter workshop for other severely handicapped) means an agency organized under the laws of the United States or of any State, operated in the interest of severely handicapped individuals who are not blind, and the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual; which complies with applicable occupational health and safety standards prescribed by the Secretary of Labor; and which in the production of commodities and the provision of services (whether or not the commodities or services are procured under these regulations) during the fiscal year employs severely handicapped individuals (including blind) for not less than 75 percent of the man-hours of direct labor required for the production or provision of commodities or services.

(j) "Procurement list" means a list of (1) the commodities, including military resale commodities, produced by any workshop for the blind or by any workshop for other severely handicapped, and (2) the services, provided by any such workshop, which the Committee determines are suitable for procurement by the Government pursuant to these regulations.

(k) "Military resale commodities" means commodities on the procurement list sold for the private, individual use of authorized patrons of Armed Forces commissaries and exchanges, or like activities of other Government departments and agencies.

(l) "Central nonprofit agency" means an agency organized under the laws of the United States or of any State, operated in the interest of the blind or other severely handicapped, the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual, and designated by the Committee to facilitate the distribution (by direct allocation, subcontract, or any other means) of orders of the Government for commodities and services on the procurement list among workshops for the blind or workshops for other severely handicapped, and to assist the Committee in administering these regulations.

(m) "Ordering office" means any activity in an entity of the Government that places orders for the procurement of any commodity or service on the procurement list.

(n) "Workshop" means a workshop for the blind or a workshop for other severely handicapped, as appropriate.

(o) "Participating workshop" means any workshop which has been authorized by the Committee to produce a commodity or provide a service to the Government under the Act.

§1.3 Priorities.

(a) The Federal Prison Industries, Inc. has priority, under the provisions of Section 4124 of title 18, United States Code, over workshops for the blind and other severely handicapped in the production of commodities for sale to the Government.

(b) The Committee, in the assignment of commodities for procurement under the Act, shall accord priority to commodities, including military resale commodities, produced and offered for sale by workshops for the blind.

§1.4 Recommendations.

All individuals, particularly those concerned with procurement, are encouraged to recommend to the Committee any commodities and services which appear to be suitable for procurement by the Government from blind or other severely handicapped workshops.

PART 2—COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

§2.1 Membership.

Under the Act the Committee is composed of 15 members appointed by the President. There is one representative from each of the following departments or agencies of the Government: The Department of Agriculture, the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Health, Education and Welfare, the Department of Commerce, the Department of Justice, the Department of Labor, the Veterans Administration, and the General Services Administration. Four members are private citizens: One who is conversant with the problems incident to the employment of blind individuals; one who is conversant with the problems incident to the employment of other severely handicapped individuals; one who represents blind individuals employed in qualified nonprofit agencies for the blind; and one who represents severely handicapped individuals (other than blind) employed in qualified nonprofit agencies for the other severely handicapped.

§2.2 Responsibility.

It is the Committee's responsibility to administer the Act, the purpose of which is to direct the procurement of selected products and services by the Federal Government to qualified workshops for the blind and other severely handicapped. The objective is to increase the opportunities for the employment of blind and other severely handicapped individuals and, whenever possible, to prepare these individuals to engage in normal competitive employment.

§2.3 Duties and powers.

The duties and powers of the Committee are:

(a) To establish and publish in the Federal Register a procurement list of those commodities and services which it determines are suitable for workshops for the blind or other severely handicapped to supply to the Government.

(b) To determine the fair market price of the commodities or services on the procurement list and to revise its price determinations in accordance with changing market conditions.

(c) To designate a central nonprofit agency or agencies to facilitate the distribution, among the workshops for the blind and other severely handicapped, of orders of the Government for commodities or services appearing on the procurement list (by direct allocation, subcontract, or any other means).

(d) To establish rules and regulations regarding the effective implementation of the Act.

(e) To assure that workshops for the blind will have priority over workshops for the other severely handicapped in the production of commodities.

(f) To conduct a continuing study and evaluation of its activities under the Act for the purpose of assuring effective and efficient administration of the Act. On its own, or in cooperation with other public or nonprofit private agencies, the Committee may study problems relating to the employment of the blind and other severely handicapped individuals, and to the development and adaptation of production methods which would enable a greater utilization of these individuals.

§2.4 Procurement list.

The Committee shall issue to each ordering office a procurement list which will include commodities and services which shall be procured from the indicated central nonprofit agency or its workshops.

(a) For commodities (except military resale commodities), the procurement list includes the item description, specification, identification, and other pertinent information.

(b) For services, the procurement list identifies the type of service to be provided and the area(s) and/or agency(s) to be serviced.

(c) For military resale commodities, the procurement list includes name of commodity and identification number.

§2.5 Fair market price.

The Committee is responsible for determining the fair market prices including changes thereto, for commodities or services

recommendations from the procuring agencies and the central nonprofit agency concerned. Recommendations for fair market prices or changes thereto shall be submitted by the workshops to the central nonprofit agency representing the workshop. The central nonprofit agency shall analyze the data and submit a recommended fair market price to the Committee along with the detailed justification necessary to support the recommended price.

PART 3—CENTRAL NONPROFIT AGENCIES

§3.1 General.

Under the provisions of section 2(c) of the Act, the following are designated central nonprofit agencies:

(a) To represent the workshops for the blind: National Industries for the Blind.

(b) To represent the workshops for other severely handicapped: National Industries for the Severely Handicapped.

§3.2 Responsibilities.

Each central nonprofit agency for its participating workshops shall:

(a) Represent them in dealing with the Committee under the Act.

(b) Evaluate the qualifications and capabilities of its workshops and provide the Committee with pertinent data concerning its workshops, their status as qualified nonprofit agencies, their manufacturing or service capabilities, and other information required by the Committee.

(c) Recommend to the Committee, with appropriate justification including recommended prices, suitable commodities or services for procurement from its workshops.

(d) Distribute within the policy guidelines of the Committee (by direct allocation, subcontract, or any other means) orders from Government activities among its workshops.

(e) Maintain the necessary records and data on its workshops to enable it to allocate orders equitably.

(f) Supervise its workshops to insure contract compliance in the production of a commodity or performance of a service.

(g) As market conditions change, recommend price changes with appropriate justification for assigned commodities or services on the procurement list.

(h) Monitor and inspect the activities of its workshops to insure compliance with the Act and appropriate regulations.

(i) When authorized by the Committee, enter into contracts with Federal procuring activities for the furnishing of commodities and services provided by its workshops.

(j) Submit to the Committee a comprehensive annual report for each fiscal year concerning the operations of its workshops under the Act, including significant accomplishments and developments, and such other details as the central nonprofit agency considers appropriate or the Committee may request. This report will be submitted by December 15 covering the fiscal year ending the preceding September 30.

(k) Review and forward to the Committee by December 15 the annual workshop certification for each of its participating workshops covering the fiscal year ending the preceding September 30.

§3.3 Assignment of commodity or service.

(a) The central nonprofit agency first proposing a service for possible addition to the Procurement List shall be assigned the service.

(b) Within 60 days after notification by the Committee that a commodity has been proposed for possible addition to the Procurement List, the Federal Prison Industries, Inc., and the National Industries for the Blind (for commodities proposed by the National Industries for the Severely Handicapped) shall notify the Committee of their decisions regarding the exercise or waiver of priority on the proposed commodity.

(c) When the Federal Prison Industries, Inc. exercises its priority for a commodity proposed by the National Industries for the Blind or the National Industries for the Severely Handicapped for possible addition to the Procurement List, the commodity may be assigned to the National Industries for the Blind or the National Industries for the Severely Handicapped in accordance with (d) or (e) below. However, procurement under the Act shall be limited to that portion of the Government's requirement for the commodity which is not available from the Federal Prison Industries, Inc.

(d) When the National Industries for the Blind proposes a commodity for possible addition to the Procurement List, it shall be assigned to the National Industries for the Blind.

(e) When the National Industries for the Severely Handicapped proposes a commodity for possible addition to the Procurement List, it shall be assigned to the National Industries for the Severely Handicapped, unless the National Industries for the Blind exercises the priority accorded to the workshops for the

blind, in which case the commodity shall be assigned to the National Industries for the Blind.

(f) When the National Industries for the Blind exercises the priority of the workshops for the blind for a commodity which was initially proposed by the National Industries for the Severely Handicapped, the National Industries for the Blind shall complete the essential steps to place the commodity on the Procurement List within nine months after assignment. If the National Industries for the Blind has not completed these steps within that time period, the Committee shall reassign the commodity to the National Industries for the Severely Handicapped. However, the nine-month period may be extended for a reasonable period of time when the National Industries for the Blind has been delayed by conditions beyond its control.

§3.4 Distribution of orders.

Central nonprofit agencies shall distribute orders from the Government only to workshops which the Committee has approved to produce the specific commodity or to perform the particular service. When the Committee has approved two or more workshops to produce a specific commodity or perform a particular service, the central nonprofit agency shall distribute orders among those workshops in a fair and equitable manner.

§3.5 Fees.

The fees the central nonprofit agency shall charge workshops for facilitating participation by their workshops under the Act shall not exceed the rate approved by the Committee.

PART 4—WORKSHOPS

§4.1 General.

To participate under the Act, a workshop shall be represented by the appropriate central nonprofit agency. The designation of the central nonprofit agency shall not be changed without prior written approval of the Committee.

§4.2 Procedures for qualification.

(a) To qualify for participation under the Act,

(1) A workshop, other than a State-owned or State-operated workshop, shall submit to the Committee through its central nonprofit agency the following documents, transmitted by a letter signed by an officer of the corporation or chief executive:

(i) A legible copy (preferably a photocopy) of the articles of incorporation showing the date of filing and the signature of an appropriate State official.

(ii) A copy of the bylaws certified by an officer of the corporation.

(iii) If the articles of incorporation or bylaws do not include a statement to the effect that no part of the net income of the workshop may inure to the benefit of any shareholder or other individual, one of the following:

(*a*) A certified true copy of the State statute under which the workshop was incorporated which includes wording to the effect that no part of the net income of the workshop may inure to the benefit of any shareholder or other individual.

(*b*) A copy of a resolution approved by the governing body of the corporation, certified by an officer of the corporation to the effect that no part of the net income of the workshop may inure to the benefit of any shareholder or other individual.

(*c*) A copy of the Internal Revenue Service certificate, duly executed during the prior twelve months, indicating that the corporation has been accepted as a nonprofit agency for taxation purposes.

(2) A State-owned or State-operated workshop for the blind or other severely handicapped shall submit to the Committee through its central nonprofit agency the following documents, transmitted by a letter signed by an officer of the wholly-owned State corporation or an official of the agency that directs the operations of the workshop, as applicable:

(i) A certified true copy of the State statute establishing or authorizing the establishment of workshop(s) for the blind or other severely handicapped.

(ii) In the case of a wholly-owned State corporation, a certified true copy of the corporation bylaws; and, in the case of a State agency, a certified true copy of implementing regulations, operating procedures, notice of establishment of the workshop, or other similar documents.

(3) The Committee shall review the documents submitted and, if they are acceptable notify the workshop through the central nonprofit agency of the workshop's eligibility to participate under the Act.

(b) At the time the central nonprofit agency recommends to the Committee the addition of a commodity or service to the procurement list, it shall submit a signed copy of the appropriate initial workshop certification for the work concerned. This requirement does not apply when a workshop is already authorized to produce a commodity or provide a service under the Act.

(c) To maintain its qualification under the Act, each workshop authorized to produce a commodity or provide a service under the Act must continue to meet the requirements of a "workshop for the blind" or "workshop for the other severely handicapped" as defined in paragraph 1.2(h) and (i) respectively and shall complete and submit an annual workshop certification to its central nonprofit agency by November 15 for the fiscal year ending the preceding September 30.

§4.3 Responsibilities.

(a) Each workshop participating under the Act shall:

(1) Furnish commodities or services in strict accordance with the allocation and Government orders.

(2) Make its records available for inspection at any reasonable time to representatives of the Committee or the central nonprofit agency representing the workshop.

(3) Maintain records of direct labor hours performed in the workshop by each worker.

(4) Submit to its central nonprofit agency by November 15 the appropriate annual workshop certificate and the information required by the central nonprofit agency to prepare its annual report both covering the fiscal year ending the preceding September 30.

(5) Comply with applicable occupational health and safety standards prescribed by the Secretary of Labor.

(6) Maintain a file on each blind individual which includes a written report prepared by a licensed physician reflecting visual acuity and field of vision of each eye with and without glasses.

(7) Maintain a file on each blind and other severely handicapped individual which includes reports of preadmission evaluation, and annual reevaluations of the individual's capability for normal competitive employment, prepared by a person or persons qualified by training and experience to evaluate the work potential, interests, aptitudes and abilities of handicapped persons.

(8) Maintain an ongoing placement program that includes staff assigned evaluation duties and liaison responsibilities with appropriate community services such as the State employment service, employer groups, and others; and list with one or more of these services those individuals whose most recent evaluations show them to be capable of normal competitive employment.

(b) Each workshop for other severely handicapped participating under the Act shall, in addition to the requirements of paragraph (a) of this section, maintain a file for each other severely handicapped individual which includes a written report prepared by a licensed physician, psychiatrist, and/or qualified psychologist, reflecting the nature and extent of the disability or disabilities that cause such person to qualify as severely handicapped.

§4.4 Subcontracting.

(a) Workshops shall seek broad competition in the purchase of raw materials and components used in the commodities and services provided the Government under the Act. Workshops shall inform the Committee before entering into multiyear contracts for raw materials or components used in the commodities and services provided the Government under the Act.

(b) Each workshop shall accomplish the maximum amount of subcontracting to small business concerns that the workshop finds to be consistent with efficient performance in producing commodities or providing services under the Act.

§4.5 Production.

In the production of commodities under the Act, a workshop shall make an appreciable contribution to the reforming of raw materials or the assembly of components or a combination thereof.

§4.6 Violations.

Any alleged violations of these regulations by a workshop shall be investigated by the appropriate central nonprofit agency which shall notify the workshop concerned and afford it an opportunity to submit a statement of facts and evidence. The central nonprofit agency shall report its findings to the Committee, together with its recommendations, including a recommendation regarding whether allocations to workshops concerned should be suspended for a period of time. In reviewing the case, the Committee may request the submission of additional evidence or may hold a hearing on the matter. Pending a decision by the Committee, the central nonprofit agency concerned may be directed by the Committee to temporarily suspend allocations to the workshop.

PART 5—PROCUREMENT REQUIREMENTS AND PROCEDURES

§5.1 Purchase Procedures.

§5.1–1 ***General.***

(a) Ordering offices shall obtain commodities and services on the procurement list from the central nonprofit agency shown thereon or its designated workshop(s), except for commodities identified on the procurement list as available through Defense Supply Agency (DSA) or from General Services Administration (GSA) supply distribution facilities.

(b) When a commodity is identified on the procurement list as being available through DSA or from GSA supply distribution facilities, it shall be obtained in accordance with the requisitioning procedures of the supplying agency. If the supplying agency cannot supply such a commodity, it shall inform the ordering office that the commodity must be procured in accordance with the provisions of this part.

(c) DSA supply centers and GSA supply distribution facilities shall also obtain commodities on the procurement list from the central nonprofit agency shown thereon or its designated workshop(s).

(d) Procedures for obtaining military resale commodities are contained in section 5.6.

§5.1–2 ***Allocations and orders.***

(a) Allocation is the action to be taken by a central nonprofit agency to designate the workshop(s) that will produce definite quantities of commodities or perform specific services upon receipt of an order from the ordering office.

(b) Letter requests for allocation shall be submitted to the appropriate central nonprofit agency listed below:

AGENCY	AGENCY *SYMBOL*
National Industries for the Blind, 1511 K Street N.W., Suite 1043, Washington, D.C. 20005 ______	IB
National Industries for the Severly Handicapped, 4350 East West Highway, Suite 1120, Washington, D.C. 20014 ______	SH

(c) Central nonprofit agencies may authorize the ordering office to transmit orders for specified commodities or services directly to the workshop(s) concerned without requesting an allocation for each order. In these cases the central nonprofit agency shall specify the normal leadtime required for orders transmitted directly to the workshop(s). This method shall be used whenever possible since it eliminates double handling and decreases the time required for processing orders.

(d) Requests for allocations shall contain for:

(1) Commodities: Name, stock number, latest specification, quantity, unit price, and place and time of delivery.

(2) Services: Type and location of service required, latest specification, work to be performed, estimated volume, and time for completion.

(e) Ordering offices shall request allocations in sufficient time for the central nonprofit agency to reply, for the order(s) to be placed, and for the workshops to produce the commodity or provide the service (see paragraph (k) of this section).

(f) When a commodity on the procurement list also appears on the Schedule of Products, Federal Prison Industries, Inc. (FPI), the ordering office shall obtain clearance from FPI prior to requesting an allocation or placing an order directly to the workshop(s).

(g) The central nonprofit agency shall make allocations to the appropriate workshop(s) upon receipt of a request from the ordering office and instruct the ordering office to forward the order to the central nonprofit agency or directly to the workshop(s).

(h) Central nonprofit agencies shall reply promptly to requests for allocations. When a request for allocation provides a delivery schedule which cannot be met, the central nonprofit agency shall request a revision, which the ordering office should grant, if feasible, or the central nonprofit agency shall issue a purchase exception authorizing procurement from commercial sources as provided in section 5.2.

(i) Allocations are not an obligation to supply any commodity or service, nor an obligation for the ordering office to issue an order, nor are workshops authorized to commence production until receipt of an order.

(j) Upon receipt of an allocation, the ordering office shall promptly submit an order to the appropriate central nonprofit agency or designated workshop(s). Where this cannot be done promptly, the ordering office shall so advise the central nonprofit agency and the workshop(s) immediately.

(k) An order for commodities or services shall provide leadtime sufficient for purchase of materials, production or preparation, and delivery or completion.

(l) The central nonprofit agency shall keep the ordering office informed of any changes in leadtime experienced by its workshop(s) in order to keep to a minimum requests for extensions once an order is placed by the ordering office. Where, due to unusual conditions, an order does not provide sufficient leadtime, the central nonprofit agency or workshop, depending on which received the order, may request an extension of delivery or completion date which should be granted, if feasible. If extension of delivery or completion date is not feasible, the ordering office shall (i) notify the central nonprofit agency and workshop(s) as appropriate, and (ii) request the central nonprofit agency to reallocate or to issue a purchase exception authorizing procurement from commercial sources as provided in section 5.2.

(m) The ordering office shall provide to the central nonprofit agency concerned a copy of all orders to workshops.

§5.2 Purchase exceptions.

(a) A central nonprofit agency shall grant a purchase exception for an ordering office to procure from commercial sources commodities or services on the procurement list when both of the following conditions are met:

(1) The central nonprofit agency cannot furnish a commodity or service within the period specified, and

(2) The commodity or service is available from commercial sources in the quantities and at an earlier time than it is available from the workshop(s).

(b) The central nonprofit agency may grant a purchase exception when the quantity involved is not sufficient for economical production or provision by the workshop(s).

(c) When the conditions in paragraphs (a) or (b) are met, the central nonprofit agency shall provide a purchase exception promptly and shall specify the quantities and delivery period covered by the exception. The central nonprofit agency shall inform the Committee prior to issuing a purchase exception to procure a commodity or service from commercial sources when the value of the procurement is $2,500 or more.

(d) When a purchase exception is granted for procurement from commercial sources under paragraph (a) above:

(1) Purchase action shall be taken within 15 days following the date of the purchase exception or as may be extended by the central nonprofit agency with the concurrence of the Committee.

(2) A copy of the solicitation shall be provided to the appropriate central nonprofit agency at the time it is issued.

(e) The Committee shall grant a purchase exception when it deems such action is appropriate.

§5.3 Prices.

(a) The prices included in the procurement list are fair market prices established by the Committee.

(b) Prices for commodities, except for military resale commodities, are for delivery aboard the vehicle of the initial carrier at point of production (f.o.b. shipping point), and include packaging, packing, and marking as shown on the procurement list.

(c) Price changes for commodities and services shall apply to all orders placed on or after the effective date of the change and in special cases, with the concurrence of the ordering office, to undelivered orders on hand at the workshop on the effective date of the change.

(d) Some prices are different for eastern and western areas of the United States. The western area includes the States of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, and Washington. Western-area prices are applicable to items manufactured by workshops located in these States.

(e) If an ordering office desires packing, packaging, or marking of products other than the standard pack or as provided in the procurement list, the difference in cost thereof, if any, shall be added to the purchase price.

§5.4 Shipping and packing.

(a) For commodities, except for military resale commodities, delivery is accomplished when a shipment is placed aboard the vehicle of the initial carrier. Time of delivery is the date shipment is released to and accepted by the initial carrier. Method of transportation to destination shall normally be by Government bills of lading. However, for small shipments, the ordering office may designate another method of transportation on its order. When shipments are under Government bills of lading, the bills of lading may accompany orders or be otherwise furnished, but they shall be supplied promptly. Failure by an ordering office to furnish bills of lading promptly, or to designate a method of transportation, may result in an excusable cause for delay in delivery. When the workshop pays for transportation to destination, these costs shall be included as a separate item on the workshop's invoice and the workshop shall be reimbursed by the ordering office for these costs.

(b) Standard pack information is stated in item descriptions. In ascending order, standard pack is given in multiples of the unit of issue contained within the inner wrap(s) and the outer shipping container pack.

(c) Shipping weights, where available, are included in the procurement list. The weight indicated applies to the last quantity shown in the information on standard pack.

§5.5 Payments.

Payments for products or services of the blind or other severely handicapped shall normally be made within 20 days, but in no event later than 30 days, after shipment or receipt of a correct invoice or voucher.

§5.6 Military resale commodities.

(a) Purchase procedures for ordering military resale commodities are contained in instructions issued by the designated central nonprofit agency and are available upon request from that agency. Armed Forces commissaries and exchanges and like activities of other Government departments and agencies (authorized resale outlets) shall request the central nonprofit agency to designate the workshop to which orders shall be forwarded.

(b) Authorized resale outlets shall stock military resale commodities in as broad a range as is practicable. Comparable brand name items procured from commercial sources may also be stocked to meet patron demand, but not to the exclusion of military resale commodities.

(c) The price of military resale commodities includes delivery to destination or, in the case of destinations overseas (including Alaska and Hawaii), to designated depots at ports of embarkation.

§5.7 Adjustment and cancellation of orders.

When the central nonprofit agency or a workshop fails to comply with the terms of a Government order, the ordering office shall make every effort to negotiate an adjustment before taking action to cancel the order. When a Government order is canceled for failure to comply with its terms, the central nonprofit agency shall be notified, and, if practicable, requested to reallocate the order. The central nonprofit agency shall notify the Committee of any cancellation of an order and the reasons therefor.

§5.8 Correspondence and inquiries.

Routine correspondence or inquiries concerning deliveries of commodities being shipped from or performance of service by blind and other severely handicapped workshops shall be with the workshop involved. Major problems shall be referred to the appropriate central nonprofit agency. In those instances where the problem cannot be resolved by the central nonprofit agency and the procuring activity involved, the procuring activity or central nonprofit agency shall notify the Committee of the problem so that action can be taken by the Committee to resolve it.

§5.9 Quality of merchandise.

(a) Commodities furnished under Government specification by blind or other severely handicapped workshops shall be manufactured in strict compliance with such specifications. Where no specifications exist, commodities produced shall be of the highest quality and equal to similar items available on the commercial market. Commodities shall be inspected utilizing nationally recognized test methods and procedures for sampling and inspection.

(b) Services provided by blind or other severely handicapped workshops shall be performed in accordance with Government specifications and standards. Where no Government specification or standard exists, the services shall be performed in accordance with good commercial practices.

§5.10 Quality complaints.

(a) When the quality of a commodity received is not considered satisfactory by the using activity, the activity shall take the following actions as appropriate:

(1) For commodities received from DSA supply centers or GSA supply distribution facilities, notify the supplying agency in accordance with that agency's procedures.

(2) For commodities received from blind or other severely handicapped workshops, address complaints to the workshop involved with a copy to the central nonprofit agency with which it is affiliated.

(b) When the quality of a service is not considered satisfactory by the using activity, the activity shall address complaints to the workshop involved with a copy to the central nonprofit agency with which it is affiliated.

(c) In those instances where quality problems cannot be resolved by the workshop and the using activity, the Committee and the central nonprofit agency shall be advised.

§5.11 Specification changes.

(a) Specifications cited in the procurement list may undergo a series of changes, indicated by successive suffix letters, to keep current with industry changes and agency needs. Since it is not feasible to show the latest revision current on the publication date, only the basic specification is referenced in the procurement list. Procurement agencies shall notify the central nonprofit agency concerned of the latest applicable specification.

(b) When a Government department or agency is changing the design or construction of a commodity on the procurement list that involves the assignment of a new Federal stock number, the Committee and the central nonprofit agency concerned shall normally be permitted to comment on such change and shall be notified of the change prior to its effective date.

PART 6—PREPARATION OF ENVIRONMENTAL STATEMENTS

§6.1 Purposes and authority.

(a) Authority. The following procedures are established, after consultation with the Council on Environmental Quality, in accordance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91–190 (42 U.S.C. 4332(2)(C)), hereinafter referred to as NEPA; section 2 of the Executive Order 11514 (42 U.S.C. 4321 Note); and 1500.3 of the Guidelines for Preparation of Environmental Impact Statements promulgated by the Council on Environmental Quality, 40 CFR Part 1500 (38 FR 20550), hereby incorporated by reference and hereafter referred to as the CEQ Guidelines.

(b) Scope. These procedures apply to the recognition of the need for environmental impact statements with respect to major actions significantly affecting the quality of the human environment, to the preparation of such statements, and to their circulation and review within and outside the Committee for Purchase from the Blind and Other Severely Handicapped (hereinafter, the Committee). The procedures also provide for appropriate action with respect to environmental impact statements submitted to the Committee for comment. These procedures are to be applied in the light of the definitions and instructions in the CEQ guidelines.

§6.2 Policy.

These procedures provide for:

(a) Designation of the official responsible for environmental impact statements.

(b) Identification of the proposed actions requiring environmental impact statements, the pertinent review process, and the time scheduling for consultations required by section 102(2)(C) of NEPA.

(c) Obtaining of the information required in the preparation of environmental impact statements.

(d) Consultation with and taking account of the comments of appropriate Federal, State, and local agencies, including the Administrator of the Environmental Protection Agency as to the environmental impact of matters under section 309 of the Clean Air Act, as amended (42 U.S.C. 185h-7), and 1500.9(b) of the CEQ Guidelines.

(e) Making suitable arrangements as required by section 2(b) of Executive Order 11514 and 1500.6(e) of the CEQ Guidelines, for timely public information on Committee plans and programs with environmental impact, including procedures relating to (i) the use of environmental impact statements in Committee policy and action review processes, (ii) the appropriate distribution of environmental impact statements, and (iii) the availability to the public of environmental impact statements and comments received thereon.

§6.3 Implementation.

(a) There shall be an Environmental Quality Officer (EQO), designated, who shall be responsible for (i) identifying actions requiring an environmental impact statement; (ii) making sure that each required statement is prepared timely and with the prescribed content; (iii) ensuring compliance with the requirements of NEPA, the CEQ Guidelines, and these procedures; (iv) maintaining compliance with all applicable scheduling, consultation, circulation, and publicity requirements; (v) receive all environmental impact statements submitted by other agencies to the Committee and coordinate the appropriate review and reply; (vi) perform such other functions as are specified in these procedures or are appropriate under the CEQ Guidelines or other instructions or recommendations of CEQ. The fulfillment of these duties will require constant and active attention by the EQO to insure that the possible timely applicability of NEPA is taken into account in all relevant cases and that, if an impact statement may be needed, the requirements of the Act, the CEQ Guidelines, these procedures are promptly and fully followed.

(b) The EQO shall be responsive to requests from the CEQ for reports or other information in connection with the implementation of NEPA and for the preparation and circulation of environmental impact statements, as required by 1500.11(f) of the Guidelines. In addition to the above, all contacts with CEQ, EPA, and other governmental agencies, or with nongovernmental matters shall be through or coordinated with the EQO.

(c) Letters transmitting environmental impact statements to the CEQ (section 11 (a), below), as well as any reports or other communications to the Council, shall be addressed to its Chairman and shall be signed by the Executive Director of the Committee. Communications announcing decisions to prepare environmental impact statements (section 4(c), below) or transmitting final statements for the information of agencies or persons commenting on draft statements (section 11(c), below) shall also be signed by the Executive Director and, in the case of a Federal agency, shall be addressed to its departmental EQO or equivalent official.

§6.4 Identifying major actions significantly affectng the environment.

(a) Under the Committee's responsibility as prescribed by law, the only major actions which it may take that could significantly affect the quality of the environment are those involving the addition of a commodity or service to the Procurement List established by the Committee. The Procurement List is a listing of commodities and services which Federal Government departments and agencies must procure from sheltered workshops serving the blind or other severely handicapped.

(b) The statutory clause "Major Federal Actions significantly affecting the quality of the human environment" is to be construed by the Committee with a view to the overall, cumulative impact of the action proposed, related to Federal actions and projects in the area and further actions contemplated. The Council on the basis of a written assessment of the impact involved is available to assist in determining whether specific actions require impact statements. Significant effects can also include actions which may have both beneficial and detrimental effects, even if on balance the Committee believes that the effect will be beneficial. Significant effects also include secondary effects. While a precise definition of environmental "significance", valid in all contexts, is not possible, effects to be considered in assessing significance include, but are not limited to, those outlined in Appendix II of the guidelines. In all cases early notification shall be given by the EQO, and a determination as to the potential environmental effects of the action and the consequent need or absence of need to submit an impact statement in connection with it shall be made and, in the case of a negative determination in accordance with subsection (f) below, appropriately documented. If it appears appropriate in making such a determination, agencies outside the Committee having expertise in matters involved should be consulted. Agencies with special environmental expertise are listed in Appendix II of the CEQ Guidelines. Non-government organizations or individuals believed to have special knowledge should also be consulted when it appears appropriate. The appraisal provided for in this paragraph shall take place as early in the Committee's consideration of the proposed action as possible (Guidelines, 1500.2(a)).

(c) When a decision to prepare an environmental impact statement on a proposed action is made, the Committee shall promptly announce this fact in the Federal Register (see CEQ Guidelines, 1500.6(e)).

(d) The EQO shall cause to be maintained for public inspection a list of all matters to which it has been decided to prepare an impact statement, shall consolidate the list quarterly, and as it is so revised, shall transmit it to the Council (see CEQ Guidelines, 1500.6(e)).

(e) The Committee shall determine whether a hearing should be held with respect to an environmental matter in accordance with criteria set forth in 1500.7(d) of the Guidelines. Normally, all hearings contemplated in this paragraph should be based on a draft environmental impact statement, which should in any event be made available to the public at least 15 days before the hearing.

(f) If as a result of the consideration of a proposed action as provided for by (b) above it is determined that no environmental impact statement is required under section 102(2)(c) of NEPA, a succinct but complete environmental assessment (negative impact statement) describing the action, the environmental impacts considered and the reasons why it has been concluded that an impact statement need not be filed shall be prepared. The EQO shall prepare such an assessment. A file of such assessments, available for public inspection, shall be maintained by the EQO (see CEQ Guidelines, 1500.6(e)).

§6.5 Time scheduling.

(a) In general, the timing of the preparation, circulation, submission, and public availability of environmental impact statements will be observed as follows:

(1) Not less than 45 days for comments on draft statements, subject to a possible extension of up to 15 days (see CEQ Guidelines, 1500.9(f));

(2) Not less than 90-day and 30-day periods, respectively, which may run concurrently, for public availability of draft and final statements prior to proposed actions (CEQ Guidelines, 1500.11(b));

(3) Not less than 15 days for public availability of draft statements prior to any relevant hearings on proposed actions (CEQ Guidelines, 1500.7(d)).

(b) The periods specified in the preceding subsection are to be calculated from the date on which the CEQ published in the Federal Register the weekly list in which the respective statement is included (CEQ Guidelines, 1500.11(c)).

(c) In the event of emergencies or overriding considerations of expense, the CEQ may be consulted, through the EQO, on possible variations of the specified periods (CEQ Guidelines, 1500.11(e)).

§6.6 General considerations as to utilization of impact statements.

(a) The preparation of a requisite impact statement should be undertaken as early as possible in the Committee's process of considering the respective proposal. The normal process for consideration and review of actions shall be followed, with such adjustment, particularly as to time periods, as may be necessary to permit ample fulfillment of the requirements of NEPA, the CEQ Guidelines, and these procedures (see CEQ Guidelines, 1500.2(a) and 1500.11(b)).

(b) As indicated in 1500.9(a) of the CEQ Guidelines and contemplated in section 4(b) above, a general principle to be applied is to obtain the views of other agencies at the earliest feasible time in the development of program or project proposals. Duplication in the clearance process should be avoided, but significant changes or redirections of a proposal may call for further environmental analysis and comment (CEQ Guidelines, 1500.11(b)).

§6.7 EPA procedures under the Clean Air Act.

(a) Comments from the Environmental Protection Agency (EPA) should be requested on the environmental impact of any major action significantly affecting the quality of the human environment, in areas of EPA responsibility, which include: air or water quality, noise abatement and control, pesticide regulation, solid waste disposal, and generally applicable environmental radiation criteria and standards. (See 1500.9(b) of the CEQ Guidelines and section 309 of the Clean Air Act (42 U.S.C. 1857h–7)).

(b) Where an environmental impact statement is being filed with EPA for comment, no special additional procedure is required.

§6.8 Securing information required in preparation of environmental impact statements.

(a) All available resources should be tapped in developing the factual and analytic information and reference sources required in the preparation of an environmental impact statement. The assistance of other agencies with jurisdiction by law or special expertise concerning the environmental impacts involved should be sought. See section 4(b) above, and 1500.9(a) and Appendixes II and III of CEQ Guidelines, which list the agencies to be consulted.

(b) If the EQO has difficulty in securing requisite information or needs guidance in making the necessary analysis, he should consult with staff members of the Council on Environmental Quality, the Office of Management and Budget, and the Environmental Protection Agency, or other pertinent sources.

§6.9 Obtaining of comments on draft statements.

(a) With respect to draft environmental impact statement, it is essential that the EQO consult with and take account of the comments of appropriate Federal, State, and local agencies. Initially this consultation may take the form of informal fact finding and analytical advice in the preparation of impact statements, as contemplated in sections 4 and 8 above, but in any event, consultation shall involve the formal solicitation of review and comments on the draft statement (CEQ Guidelines, 1500.9(a)—(b)). When appropriate, the procedures set forth in Office of Management and Budget Circular No. A–95 for obtaining state and local comments through clearing houses shall be utilized (CEQ Guidelines, 1500.9(c)).

(b) Comments should also be requested from private organizations or persons which appear to have a special interest in some significant environmental aspect of the proposed action (CEQ Guidelines, 1500.9(d)).

§6.10 Content of environmental impact statements.

(a) Environmental impact statements are to provide adequate, meaningful, and factual information and analysis to permit an evaluation of the action from the environmental standpoint. Perfunctory generalities are not acceptable, but, on the other hand, information should be conveyed as succinctly and understandably as the subject will permit. Quantitative information about the proposed action, including actual or estimated data on its probable effects, should be included to the furthest extent practicable. Where a cost-benefit analysis of the proposed action has been prepared, this analysis should be attached to the environmental impact statement sent to the commenting agencies and to the Council on Environmental Quality and made available to the public.

(b) The basic content requirements for a draft statement are set forth in 1500.8 of the CEQ Guidelines and those for a final statement in 1500.10. Appendix I of the Guidelines provides the format of a summary sheet which must accompany each draft and final statement. Statements shall follow the prescribed outline and content requirements as closely as is feasible in each particular case.

(c) All reasonable alternatives and their environmental impacts are to be discussed, regardless of whether or not they are within the authority of the Committee (CEQ Guidelines 1500.8(a)(4)).

(d) Any substantial points of view in opposition to the proposed action on environmental grounds which are known to exist shall be described in the draft statement as well as in the final statement. So far as possible, quotations of salient passages from expressions of such points of view should be included to make sure there is no doubt that they have been accurately presented. As to final statements, CEQ has directed (Guidelines 1500.10(a)) that all substantive comments (or if any is exceptionally voluminous, a summary thereof) received on the draft should be attached to each copy, whether or not each such comment is thought to merit individual discussion in the text of the statement.

(e) Each draft and final statement should refer to the underlying studies, reports and other documents considered and should indicate how such documents may be obtained. In general, with the exception of standard reference documents such as Congressional materials, the Committee should maintain a file of the respective documents which may be consulted by interested person. Even if especially significant documents are attached to the statement, care should be taken to insure that it remains an essentially self-contained instrument easily understood by the reader without the need for undue cross reference (CEQ Guidelines, 1500.8(b)).

(f) Environmental impact statements should, to the extent possible, include statements or findings concerning environmental impact required by other statutes, such as section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. Section 470f), with a view to the issuance of a single document meeting all applicable requirements. Any procedures or instructions issued by the Federal agency having jurisdiction with regard to such a statute should, of course, be consulted in the preparation of the combined statement (CEQ Guidelines 1500.9(a)).

§6.11 Filing and distribution of environmental impact statements.

(a) Five copies of each draft or final statement are to be filed with CEQ (Guidelines, 1500.11(a) and supplemental CEQ instructions of March 1, 1974).

(b) At the same time that each draft statement is filed with the Council, copies should also be sent to all pertinent entities, i.e., Federal, state, and local agencies, and private organizations and individuals (CEQ Guidelines 1500.9).

(c) At the same time that each final statement is filed with the Council, copies should also be sent to all entities which made substantive comments on the draft statement, or requested a copy, so that they may be appropriately informed (CEQ Guidelines, 1500.10(b)).

§6.12 Availability of environmental impact statement to the public.

(a) Environmental impact statements, both draft and final, and any substantive comments thereon shall be made available to the public pursuant to the Freedom of Information Act (5 U.S.C. 552). When appropriate, copies of each statement shall also be made available through State, regional, and metropolitan clearinghouses, or such alternate point as the Governor of the respective State may designate to CEQ (Guidelines, 1500.11(d)).

(b) A notice of the filing and availability of each environmental impact statement, draft and final, shall be inserted in the Federal Register. When appropriate, other methods of publicizing the existence of draft statement, such as, publishing a notice in local newspapers or sending a notice directly to non-governmental groups or persons believed to be interested (CEQ Guidelines 1500.9(d)), should be utilized.

(c) Each statement should be reproduced in a number of copies sufficient to meet the anticipated demands, not only of agencies, organizations, and individuals who must receive copies as required by section 11 above (1500.9 and 1500.10(b) of the CEQ Guidelines), but also for a reasonable number of additional requests. Copies to be made available to the public shall normally be provided without charge, but when copies are significant, a fee may be established which shall not exceed the actual cost per copy of reproducing the copies additional to those required to be sent to other Federal agencies (CEQ Guidelines 1500.9(d)).

§6.13 Utilization of final impact statement in the decisional process.

(a) Section 102(2) of NEPA requires that the final environmental impact statement shall accompany the proposal to which it relates through the Committee's decision process.

(b) In this process pertinent nonenvironmental factors are to be considered and balanced with those relating to the environment. It is requisite that the entire process be based on an administrative record in which the statement is included and fully taken into account together with the relevant non-environmental factors presented in the record. Although no significant factor should be neglected, the document should give particular attention to any appreciable adverse environmental effects set forth in the impact statement and should closely, though succinctly, balance them with any other relevant interests and considerations of Federal policy set forth in the record, including particularly an analysis of the alternatives to the proposed action and their relationship to the non-environmental factors. The final decision should contain sufficient analysis to make clear the essential basis of the determination.

§6.14 Comments on statements of other agencies.

(a) As set forth in section 3(a) (vi) above and pursuant to Appendix III of the CEQ Guidelines, the EQO shall receive all environmental impact statemetns submitted by other agencies for comment and coordinate the appropriate review and reply. If the Committee receives a request for comment direct from another agency, the request, together with the respective statement, shall be referred to the EQO for appropriate action.

(b) Comments should of course be confined to matters within the jurisdiction or expertise of the Committee. However, comments need not be limited to environmental aspects but may relate to fiscal, economic, and other non-environmental matters of concern to the Committee.

(c) At the time comments are sent to the agency responsible for a statement, five copies shall be forwarded to the CEQ by the EQO (CEQ Guidelines, 1500.11(a)). Copies of replies indicating that the Committee has no comment on an impact statement should not be forwarded to the CEQ.

(d) With regard to requests for comment on statements relating to proposals for legislation, close coordination shall be maintained between the EQO and the Committee's counsel in relation to the latter's normal responsibility concerning the Committee's comments on legislative proposals themselves.

PART 7—PUBLIC AVAILABILITY OF AGENCY MATERIALS

§7.1 Purpose.

These regulations implement the provisions of the "Freedom of Information Act", 5 U.S.C. 552. They establish procedures under which the public may inspect and obtain copies of nonexempt material maintained by the Committee, provide for administrative appeal of initial determinations to deny requests for material, and prescribe uniform fees to be charged by the Committee to recover direct search and duplication costs.

§7.2 Scope.

(a) These regulations shall apply to all final determinations made by the Committee including all objections; and to any other Committee records reasonably described and requested by a person in accordance with these regulations—except to the extent that such material is exempt in accordance with paragraph (b) of this section.

(b) Requests for inspection and copies shall not be granted with respect to materials that are:

(1) (*a*) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, and

(*b*) Are in fact properly classified pursuant to such Executive Order;

(2) Related solely to the internal personnel rules and practices of the Committee;

(3) Specifically exempted from disclosure by statute;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the Committee;

(6) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would

(*a*) Interfere with enforcement proceedings,

(*b*) Deprive a person of a right to a fair trial or an impartial adjudication,

(*c*) Constitute an unwarranted invasion of personal privacy,

(*d*) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source,

(*e*) Disclose investigative techniques and procedures, or

(*f*) Endanger the life or physical safety of law enforcement personnel;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

§7.3 Definitions.

As used in these regulations:

(a) The term "Committee" means the Committee for Purchase from the Blind and Other Severely Handicapped

(b) The term "Chairman" means the Chairman of the Committee for Purchase from the Blind and Other Severely Handicapped

(c) The term "exempt materials" means those materials described in Section 7.2(b).

(d) The term "Non-exempt materials" refers to all materials described in Section 7.2(a) but not included in Section 7.2(b).

§7.4 Availability of materials.

(a) All non-exempt materials shall be available for inspection during normal business hours at the Committee's offices, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201. Space shall be made available at that location for the use of any person who is granted permission to inspect such materials. An individual who intends to visit the Committee offices in person to inspect non-exempt materials should make an appointment with the Executive Director at least one week in advance.

(b) Requests to inspect, and obtain copies of any material maintained by the Committee may be made in person at the Committee offices, or submitted in writing to the Executive Director, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201. Each request should include a reasonable description of the material being sought, and should contain sufficient detail to facilitate retrieval of the material without undue delay. The Committee staff shall assist to the extent practicable in identifying material that is imprecisely described by the person requesting such material.

(c) An initial determination whether, and to what extent, to grant each request shall be made by the Executive Director or his delegate within 10 days (excepting Saturdays, Sundays, and legal public holidays) after receipt of that request. The person making the request shall be notified immediately of the determination made. In making such determinations, it shall first be considered whether the material requested is of a type described in Section 7.2(a); if it is, the request shall be granted unless the material is exempted by Section 7.2(b). If the material requested is not a type described in Section 7.2(a), or is the subject of one or more exemptions, the request shall be denied.

(d) If a determination is made to grant a request, the relevant material shall promptly be made available for inspection at the Committee offices. Copies of the material disclosed shall be furnished within a reasonable time after payment of the fee specified in Section 7.7. Copies of less than 10 pages of material requested in person ordinarily will be furnished immediately following the determination to grant the request and payment of the fee. Larger numbers of copies may be furnished at the earliest convenience of the Committee staff, but must be furnished within a reasonable time following payment of the fee.

(e) Whenever required to prevent a clearly unwarranted invasion of personal privacy, the Executive Director or his delegate shall determine that identifying details shall be deleted from an interpretation to which access is granted or of which copies are furnished. Where portions of the requested material are exempt under Section 7.2(b), and are reasonably segregable from the remainder of the material, those portions shall be excised from the materials disclosed. Whenever details are deleted or portions are excised and not disclosed, the notification shall include the information specified in Section 7.4(f).

(f) If a determination is made to deny a request, the notification shall include a statement of the reasons for such action, shall set forth the name and position of the person responsible for the denial, and shall advise the requester of the right, and the procedures required under Section 7.5 to appeal the denial to the Chairman.

§7.5 Administrative appeal.

(a) An appeal to the Chairman of any denial, in whole or part, of a request for access to and copies of material may be made by submission of a written request for reconsideration. Such requests must state specific reasons for reconsideration that address directly the grounds upon which the denial was based. Requests should be addressed to the Chairman at the Committee offices.

(b) The Chairman shall make a determination with respect to any appeal within 20 days (excepting Saturdays, Sundays, and legal public holidays) after receipt of the request for reconsideration. The person making such a request shall immediately be notified by mail of the determination.

(c) If the initial denial is reversed by the Chairman, any material with which the reversal is concerned shall be made available for inspection, and copies shall be furnished, in accordance with Section 7.4(d).

(d) If the denial is upheld, in whole or in part, the Chairman shall include in the notification a statement of the requester's right of judicial review under 5 U.S.C. 552(a)(4), and the names and positions of the persons responsible for the denial.

§7.6 Extensions of time.

(a) Whenever unusual circumstances exist, as set forth in Section 7.6(b), the times within which determinations must be made by the Executive Director on requests for access (10 working days), and by the Chairman on requests for reconsideration (20 working days), may be extended by written notice to the requester. The notice shall set forth the reasons for such extension, and the date on which a determination is expected to be made. The maximum extension of time allowed under this section shall be 10 working days, but shall be utilized only to the extent reasonably necessary to the proper processing of the particular request.

(b) As used in this section, "unusual circumstances" shall mean:

(1) The need to search for and collect the requested records from other establishments that are separate from the Committee offices;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are the subject of a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request.

§7.7 Fees.

The following standard charges for document search and duplication, based on the direct costs of such services, must be paid before access to, or copies of material will be granted under these regulations:

(a) Search: $4.00 per person-hour for clerical time; $8.00 per person-hour for professional or supervisory time;

(b) Duplication: $0.10 per page of photocopied material.

(c) Other: When no specific fee has been established for a service, the Executive Director is authorized to establish an appropriate fee based on "direct costs" as provided in the Freedom of Information Act.

(d) The Committee shall furnish without charge, or at a reduced charge, copies of any material disclosed pursuant to these regulations, whenever the Executive Director determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

PART 8—PRIVACY ACT RULES

§8.1 General Policy.

(a) Maintenance of records.

(1) Collection and use.

Any information used in whole or in part in making a determination about an individual's rights, benefits, or privileges under the Committee programs, shall, to the extent practicable, be collected directly from the subject individual. At the time information is collected, the individual must be informed of the authority for collecting such information, whether providing the information is mandatory or voluntary, the purposes for routine uses as published in the Federal Register, and the effects on the individual, if any, of not providing the information. The information collected shall be used only for the intended purpose or permission for additional use will be obtained from the subject individual.

(2) Standards of accuracy.

The Executive Director shall insure that all records which are used by the agency to make determinations about any individual are maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual. Upon petition by an individual, the Executive Director shall provide the individual with the opportunity to review his records, and to request amendment of a portion which the individual believes is not accurate, relevant, timely or complete. Prior to dissemination of records about any individual to any person or to another agency, exclusive of disclosure pursuant to the Freedom of Information Act, the Executive Director shall make reasonable effort to insure that such records are accurate, complete, timely, and relevant.

(3) Content of systems of records.

The Executive Director shall maintain in records only such information about an individual as is relevant and necessary to accomplish an agency purpose required by statute or executive order. Such records shall not contain any information describing how any individual exercises rights guaranteed by the First Amendment unless specifically authorized by statute, by the subject individual, or is pertinent to and within the scope of an authorized law enforcement activity. For these purposes, First Amendment rights include, but are not limited to, religious and political beliefs, freedom of speech, the press, assembly, and freedom to petition.

(4) Rules of conduct.

Any employee of the Committee involved in the design, development, operation or maintenance of any system of records, or in maintaining any record, shall review the provisions of 5 U.S.C. 552a and these regulations, and shall conduct himself accordingly with the rules of conduct concerning the protection of personal information outlined in 41 CFR 51—8.7, Disclosure of Information about an Individual.

(5) Safeguarding systems of records.

The Executive Director shall insure that appropriate administrative, technical and physical safeguards are established to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarassment, inconvenience, or unfairness to any individual on whom information is maintained.

(b) Availability of records.

Committee records pertaining to an individual shall be made available to the subject individual to the greatest extent possible. Disclosures of records to other than the subject individual will be made only in accordance with subpart 8.2.

(1) Specific exemptions.

Systems of records maintained by the Committee which have been exempted from certain requirements of the Privacy Act are designated in 8.6. An individual shall have access to all exempted records containing information about him under procedures outlined in 8.3. Upon request, an individual shall receive an accounting of any disclosure of information about him.

§8.2 Disclosure of Records.

(a) Conditions of disclosure.

No Committee member or employee of the Committee shall disclose any record to any person or to another agency without the express written consent of the subject individual unless the disclosure is:

(1) To Committee members or employees who have a need for the information in the official performance of their duties.

(2) Required under the provisions of the Freedom of Information Act.

(3) For a routine use as published in the annual notice in the Federal Register.

(4) To the Bureau of Census for uses pursuant to Title 13.

(5) To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a the record is to be transferred in a form that statistical research or reporting record and is not individually identifiable. The written statement should include as a minimum:

(i) A statement of the purpose of requesting the records, and

(ii) Certification that the records will be used only for statistical purposes.

These written statements shall be maintained as records. In addition to stripping personally identifying information from records released for statistical purpose, the Committee will insure that the identity of the individual cannot reasonably be deduced by combining various statistical records.

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value.

(7) To another agency or instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought.

(8) To a person showing compelling circumstances affecting the health and safety of an individual (not necessarily the individual to whom the record pertains). Upon such disclosure, a notification of such shall be sent to the last known address of the individual.

(9) To either House of Congress or to a subcommittee or committee (joint or of either House, to the extent that the subject matter falls within their jurisdiction).

(10) To the Comptroller General, or any of his authorized representatives in the course of the performance of the duties of the General Accounting Office, or

(11) Pursuant to the order of the court of competent jurisdiction.

(b) Accounting of disclosures.

(1) Except for disclosures made pursuant to paragraph (1) and (2) of 8.2(a) an accurate accounting of each disclosure will be made and retained for five years after the disclosure or for the life of the record, whichever is longer. The accounting will include the date nature, and purpose of each disclosure, and the name and address of the person or agency to whom the disclosure is made.

(2) The accounting will be recorded and maintained in any manner the Executive Director determines is satisfactory for the purposes of constructing a listing of all disclosures, and for providing a cross reference to the justification or basis upon which the disclosure was made, including written documentation required when records are released for statistical or law enforcement purposes and any written consents provided by the individual.

(3) Except for disclosure made to agencies or instrumentalities in law enforcement activities in accordance with 8.2(a) (7) or for disclosures made from systems exempted from this requirement of the Act as outlined in 8,6, the accounting of disclosures will be made available to the individual upon request. Procedures for requesting access to the accounting are outlined in 8.3.

§8.3 Individual Access to Records.

(a) Notification.

Any individual who wishes to determine if a system of records maintained by the Committee contains a record pertaining to him should direct a request to the Executive Director at the address indicated in the public notice describing the system of records which has been published in the Federal Register. The request should display clearly the legend "Privacy Act Request" both on the face of the request letter and on the face of the envelope. The request letter should contain the complete name and identifying number of the system as published in the Federal Register; the full name, address, and telephone number of the subject individual; a brief description of the nature, time, place and circumstances of the individual's association with the Committee and any other information which the individual believes would facilitate the Executive Director's determination whether the individual's name is included in the system of records. The Executive Director shall answer or acknowledge the request within ten working days.

(b) Times, places and requirements for access requests.

Records will be available for authorized access during normal business hours at the offices where the records are located. A requester should be prepared to identify himself through production of a driver's license, student or employee identification card, or other identification acceptable to the Executive Director. When the disclosure of records to the wrong individual would result in substantial harm, embarrassment, inconvenience, or unfairness to the subject individual, the Executive Director may require a notarized statement of identity. The Executive Director shall insure that such times, places, and requirements for identification are not excessive and do not restrict individual access unduly.

(c) Access procedures.

(1) Form of requests.

(i) An individual must request access to his record in writing. The Executive Director shall accept by telephone only general inquiries for information regarding systems of records or procedures.

(ii) A written request should be directed to the Executive Director as listed in the public notice describing the system of records. The individual should display clearly on the face of the request letter and on the face of the envelope the legend "Privacy Act Request", and include the complete name and identifying number of the system as published in the Federal Register; the full name, address, the telephone number of the individual; a brief description of the nature, time, place and circumstances of the individuals association with the Committee; and any other information which the individual believes would facilitate the Executive Director's search for the record.

(iii) An individual who wishes to have a person of his choosing accompany him in reviewing a record must sign a statement authorizing the disclosure of his record in the presence of another individual, if so requested by the Executive Director. An individual who intends to visit the Committee office in order to review a record should make an appointment with the Executive Director at least one week in advance.

(2) Special requirements for medical/psychological records.

(i) The Executive Director may require an individual who requests access to his medical or psychological record to designate a physician of his choice to whom he may disclose the individual's record if in the opinion of the Executive Director, disclosure directly to the individual might be harmful.

(ii) The Executive Director shall mark records which should not be disclosed directly to the subject individual and shall inform an individual requesting such records of the requirement to designate a physician to whom the records can be disclosed.

(3) Granting Access.

(i) Upon receipt of a request for access to non-exempt records, the Executive Director shall make such records available to the individual, or shall acknowledge the request within ten working days. The acknowledgment shall indicate when the Executive Director will make the record available.

(ii) If the Executive Director anticipates more than ten days in making a record available he also shall include in the acknowledgment specific reasons for the delay.

(iii) If an individual's request for access does not contain sufficient information to permit the Executive Director to locate the record, the Executive Director shall request additional information from the individual and shall have ten working days following receipt of the additional information in which to make the record available, or to acknowledge receipt of the request and indicate when the record will be available. In no case shall more information be requested from the individual than that contained in the pertinent system of records.

(iv) The Executive Director, at his discretion, either shall permit an individual to examine the original of the record, or shall provide the individual with a copy of the record. Fees shall be charged only for copies requested by the individual and not for copies provided to the individual for convenience of the agency.

(v) An individual may request to pick up a record in person or receive it by mail, directed to the name and address provided by the individual in his request. The Executive Director shall not make a record available to a third party for delivery to the subject individual, except in the case of medical records outlined in 8.3(c) (2).

(vi) The Executive Director shall maintain in an individual's record an accounting of disclosures to the individual's documenting compliance with the request.

(vii) The procedures for access to an accounting of disclosures is identical to the procedure for access to a record as set forth in this subsection.

(4) Denials of access.

(i) The Executive Director may deny any individual access to his record only on the grounds that the Committee has published rules in the Federal Register exempting the pertinent system of records from the access requirement.

(ii) Upon receipt of a request for access to an exempt system, the Executive Director shall prepare a letter denying access. The letter of denial shall contain a justification for denial of access which includes appropriate citation to the exemption provisions of these rules or other Federal Register notice exempting the system.

(d) Fees.

(1) Records available without charge.

The Executive Director shall make one copy of a record available to an employee without charge, and may waive the fee requirement for any other individual requesting records if the cost of collecting the fee is an unduly large part of, or greater than, the fee, or when furnishing the record without charge conforms to generally established business custom or is in the public interest.

(2) Records available at a fee.

The Executive Director shall provide one copy of a record to the individual at a fee prescribed in 8.3(d) (5). A reasonable number of additional copies will be provided for the applicable fee where reproduction services are not readily available.

(3) Prepayment of fees over $25.

When the Executive Director determines that the anticipated total fee is likely to exceed $25, he shall notify the individual that he must prepay the anticipated fee prior to making the records available. The Committee will remit the excess paid by the individual or bill the individual for an additional amount according to variations between the final fee charged and the amount prepaid.

(4) Form of payment.

Payment shall be by check or money order payable to the Treasurer of the United States and shall be addressed to the Executive Director.

(5) Reproduction fee schedule.

(a) The fee for reproducing a copy of a record (by routine electrostatic copying) up to and including material 8½ × 14 inches shall be $0.10 per page.

(b) The fee for reproducing a copy of a record over 8½ × 14 inches or whose physical characteristics do not permit reproduction by routine electrostatic copying shall be the direct cost of reproducing the records through Government or commercial sources.

§8.4 Requests to Amend Records.

(a) Submission of requests to amend records.

An individual who desires to amend any record or information pertaining to him should direct a written request to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street, N., Arlington, Virginia 22201.

A request should bear the legend "Privacy Act—Request to Amend Record" prominently marked on both the face of the request letter and the envelope.

(b) Review of requests to amend records.

(1) Upon receipt of a request to amend a record, the responsible official, whenever practicable shall complete the review and advise the individual of the results within ten working days. If the determination cannot be made within ten working days, the Executive Director, within ten working days, shall send the individual a written acknowledgement of receipt of the request including a description of the request and the date when the requester may expect to be advised of action taken on the request. Except in unusual circumstances, the Executive Director shall complete the review within 30 working days. In unusual circumstances, causing delay beyond the 30 day limit the Executive Director shall inform the individual in writing of the cause of delay, the actions taken to review the record, and the date the Executive

Director anticipates the review to be complete.

(2) When reviewing a record in response to a request to amend, the Executive Director shall assess the accuracy, relevance, timeliness, and completeness of the record to insure fairness to the individual in any determination made on the basis of the record. With respect to a request to delete information, the Executive Director also shall review the request and record to determine whether the information is relevant and necessary to accomplish an agency purpose required to be accomplished by law or Executive Order.

(c) Approval of requests to amend.

If the Executive Director agrees to amend a record, he shall promptly make the necessary corrections to the record and shall send a copy of the corrected record to the individual. Where an accounting of disclosure has been maintained, he shall advise all previous recipients of the record of the fact that a correction was made of/and the substance of the correction. Where practicable, the Executive Director shall send a copy of the corrected record to previous recipients.

(d) Refusal of request to amend.

(1) The Executive Director, or any official acting for him, shall have the authority to issue an initial refusal of a request to amend a record within his custody and shall be responsible for the initial adverse agency determination.

(2) If the Executive Director, after reviewing the request to amend a record, determines not to amend the record, he shall promptly advise the requester in writing of the determination. The refusal letter (i) shall state the reasons for refusal, (ii) shall state the requester's right to seek a review of the initial determination, and (iii) shall state the procedures for requesting such review.

(e) Request for review of refusal to amend a record.

(1) An individual who disagrees with the refusal to amend may appeal that refusal with the Committee. An individual should address a request for review of a refusal to amend any record, exclusive of a personnel record of a current Committee employee to the Chairman, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street, N., Suite 610, Arlington, Virginia 22201.

(2) A request to review must be in writing and should include a copy of the initial request and refusal to amend. The request to review should bear the legend "Privacy Act —Request for Review of Refusal to Amend" on both the face of the letter and the envelope. The Chairman shall complete the review and make a determination no later than 30 working days after receipt of the request for review, unless a determination is made to extend the 30 day period. If a determination is made to extend the 30 day period, the Chairman shall notify the requester in writing of the reasons for the delay and the date when the review will be completed.

(3) Upon receipt of a request to review a refusal to amend, the Chairman shall undertake an independent review of the request and initial determination. If, after conducting the review, the Chairman agrees to amend the record, and notify previous recipients in accordance with 8.4(c).

(4) If, after conducting the review, the Chairman agrees with the refusal to amend the record, he shall notify the requester promptly in writing of the determination. The notification shall include the reasons for the refusal, and shall advise the individual of his right to file a statement of disagreement, and the procedures for doing so. The Chairman also shall advise the individual that such statement of disagreement will be made available in any subsequent disclosures of the record together with a concise statement summarizing reasons for refusal where the responsible official deems it appropriate. The Chairman also will advise the individual of his right to bring civil action against the agency in a district court of the United States.

§8.5 Report of New Systems and Alteration of Existing Systems.

(a) Reporting requirement.

(1) No later than 30 days prior to the establishment of a new system of records, the Executive Director shall submit a copy of the proposal to the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Management and Budget for their evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals of the disclosure of information relating to such individuals.

(2) No later than 30 days prior to the alteration of a system of records, the Executive Director for the maintenance of that system of records shall submit a copy of the proposal to the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Management and Budget for their evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals of the disclosure of information relating to such individuals.

(b) Federal Register Notice of Establishment of New System or Alteration of Existing System.

(1) When the Executive Director receives notice that the Senate, the House of Representatives, and the Office of Management and Budget do not object to the establishment of a new system of records, or the alteration of an existing system of records, or

(2) When no fewer than 30 days elapse from the submission of the proposal to the Senate, the House of Representatives, and the Office of Management and Budget, without receipt by the Executive Director of an objection to the proposal, then a notice shall be published in the Federal Register of the proposed establishment or alteration of a system of records. The notice shall include all of the information required to be provided by the Privacy Act of 1974, and such other information as deemed necessary.

(c) Effective date of new systems of records or alteration of an existing system of records.

Systems of records proposed to be established or altered in accordance with the provision of the subpart shall be effective no sooner than 30 days from the publication of notice required by 8.5(b).

§8.6 Exemptions.

(a) Reserved.

§8.7 Rules of Conduct for Disclosure of Information About an Individual.

(a) Committee rules of conduct.

(1) Every Committee member and employee who is involved in the design, development, operation, or maintenance of a system of records, or who has access to a system of records shall familiarize himself with the requirements of the Privacy Act of 1974 (5 U.S.C. 552a) and the Committee regulations and orders issued thereunder and apply these requirements to all systems of records.

(2) No Committee member or employee shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of the individual to whom the record pertains, unless the disclosure would be to a recipient specified in paragraph c of this section. The term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph. The term "system of records" means a group of any records under the control of the Committee from which information is retrieved by the name of the individual or by some identifying number symbol, or other identifying particular assigned to the individual. The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected. The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence. The term "agency" is defined in 5 U.S.C. 552(e).

(3) An employee may disclose any record which is contained in a system of records, without a written request by and without the prior written consent of the individual to whom the record pertains, if the disclosure would be:

(i) To those Committee members and employees of the agency which maintains the record who had a need for the record in the performance of their duties;

(ii) Required under Section 552 of Title 5 U.S.C.;

(iii) For a routine use as described in paragraph b, above;

(iv) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13 U.S.C.;

(v) To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(vi) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(vii) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(viii) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(ix) To either House of Congress, or to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(x) To the Comptroller General, or any of his authorized representatives, in the performance of the duties of the General Accounting Office; or

(xi) Pursuant to the order of a court of competent jurisdiction.

(4) No Committee member or employee shall maintain a record describing how any individual exercises right guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity.

(5) No Committee member or employee shall sell or rent an individual's name and address unless such action is specifically authorized by law.

(6) A Committee member or employee, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by paragraph a of this section or by any other rules or regulations established under the Privacy Act of 1974, and who (i) knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, or (ii) willfully maintains a system of records without meeting the notice requirements of the Privacy Act of 1974, or (iii) knowingly and willfully requests or obtains any record concerning an individual from any agency under false pretenses, is subject to criminal penalties and administrative sanctions. Any Committee member or employee who (i) makes a determination not to amend an individual's record in accordance with the Privacy Act of 1974, or (ii) refuses to comply with an individual's request to gain access to review, and obtain a copy of any information pertaining to him or (iii) fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights or opportunities or of benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual, or (iv) fails to comply with any provision of the Privacy Act of 1974 or any Committee regulation implementing it, subjects the Committee to civil penalties and himself to administrative sanctions.

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AN INTRODUCTION TO NATIONAL INDUSTRIES FOR THE BLIND

HISTORICAL BACKGROUND

The Wagner-O'Day Act

1938 proved to be a most important year for the blind citizens of this nation. It was in 1938 that Congress passed the Wagner-O'Day Act. This Act gave a priority to qualified workshops for the blind over competitive industry in the production of selected commodities purchased by the Federal Government. This priority was second only to the Federal Prison Industries, Inc., which in 1938 had been for a number of years producing goods for the Federal Government. This Act provided workshops for the blind with a sound sales market which demanded both high quality goods and effective business practices. Of course, workshops for the blind were required to meet all of the product requirements established by the Federal Government.

In June of 1971, the Wagner-O'Day Act was amended to include "services" as well as products and in addition, gave a priority to workshops serving the other severely handicapped directly behind workshops for the blind. The 1971 amendments were introduced by Senator Jacob Javits, and the Act is now known as the Javits-Wagner-O'Day Act (Public Law 92-28).

The Committee for Purchase from the Blind and Other Severely Handicapped

(hereafter referred to as The Committee)

The Wagner-O'Day Act created a Committee in 1938 to administer and implement its provisions. This Committee was originally called, "The Committee on Purchase of Blind Made Products." As a result of the 1971 amendments, The Committee is now known as "The Committee for Purchase from the Blind and Other Severely Handicapped." It consists of eleven representatives of major federal agencies and four additional private citizens who are knowledgeable about handicapping conditions. The Committee serves by appointment of the President of the United States. The duties and powers of The Committee are:

a. To establish and publish in the Federal Register a procurement list of those commodities and services which it determines are suitable for workshops for the blind or other severely handicapped to supply to the Federal Government.

b. To determine the fair market price of the commodities or services on the procurement list and to revise its price determinations in accordance with changing market conditions.

c. To designate a central nonprofit agency or agencies to facilitate the equitable distribution, among the workshops for the blind and other severely handicapped, of government orders for commodities or services appearing on the procurement list (by allocation, subcontract or any other means).

d. To establish rules and regulations regarding the effective implementation of the Act and to conduct continuing evaluations of its activities to assure effective and efficient administration of the Act.

e. To assure that workshops for the blind will have priority over workshops for the other severely handicapped persons in the production of commodities for the Federal Government.

The Formation of NIB

The Committee was empowered to designate a central nonprofit agency to coordinate the day-to-day activities of the program for workshops for the blind and other severely handicapped, insure adherence to its regulations by participating workshops, and achieve an equitable distribution of Government Purchase Orders. In response to the need for a central nonprofit agency to act as a liaison between the Federal Government and workshops for the blind, NIB was formed in 1938. NIB now has over 40 years of experience in this function and is a recognized leader in its field.

The General Council of Workshops for the Blind

The General Council of Workshops for the Blind is an organization of those workshops which are associated with NIB. While The General Council has no staff of its own, it does provide direct input into the programs of NIB through its Regional Representatives, its Executive Committee and its members who sit on the NIB Board of Directors. It is through this close working relationship that NIB is responsive to the needs of its associated workshops. There are no fees or dues for membership in The General Council of Workshops for the Blind. The General Council is most active in assessing the needs of its members and making recommendations to NIB so that it can respond to those needs.

NIB: A GENERAL DESCRIPTION

Philosophy and Goals of NIB

NIB has an encompassing belief that every blind and multihandicapped blind individual who wants to work should be afforded that opportunity. Every blind and multihandicapped blind person, like everyone else, possesses individual strengths and weaknesses which make that individual capable of functioning in a myriad of employment activities. Thus, it is the goal of NIB to develop, expand and improve opportunities for the evaluation, training and employment of blind persons in and through workshop facilities.

Types of Workshops Associated with NIB

Workshops for the blind associated with NIB are not-for-profit agencies organized under private or State sponsorship. Some are extremely large while others serve only a few clients. A number of these workshops are part of multi-service agencies which provide a wide variety of services, while others are comprehensive workshops which offer vocational evaluation, work adjustment, training and placement, as well as transitional and extended employment.

A growing number of associated workshops are developing multi-tiered employment services so that every blind person, regardless of the degree of disability or type and severity of additional disabilities, may have an opportunity to work. These tiers may include a Work Activities Center for the most severely disabled blind person, a Special Workshop Program for the multihandicapped blind person who is beyond a Work Activities Center but still needs a good deal of supportive assistance, and an Industrial Workshop Program for those blind and multihandicapped blind persons who with supportive service can approach or meet competitive industrial requirements.

NIB ORGANIZATION

NIB is a New York State Membership Corporation and operates as a 501(c)3 not-for-profit organization. The Executive Vice President of NIB is directly responsible to the Board of Directors and has an associated responsibility to The General Council of Workshops for the Blind and to The Committee. The Executive Vice President oversees the administration of the six NIB Divisions. He also oversees and is directly involved in the administration of Royal Maid, Inc., NIB's experimental and demonstration workshop in Hazlehurst, Mississippi.

Each Division Director is responsible for the functioning of the appropriate areas his/her division. The responsibilities and functions of these divisions are outlined in the following section:

NIB Divisions

The primary function of NIB, as stipulated by The Committee, is to administer and implement the requirements of the

Javits-Wagner-O'Day Act (Public Law 92-28). However, in the more than 40 years since its inception, NIB's programs have grown dramatically in scope. It now offers a wide variety of services that help to improve the performance of its associated workshops so they can best assist blind and multihandicapped blind persons to become more independent self-supporting members of the community.

A. Government Marketing Division

This division coordinates the activities of NIB with The Committee. The Director of the division is responsible for the administration of the following departments:

1. The Allocation and Contract Administration Department.
2. The Technical Center which includes the general products branch, the production services branch, the quality services branch, the project support branch and the textile branch. The Technical Center is located in St. Louis, Missouri and is a U. S. Government Accredited Testing Laboratory.
3. The Industrial Engineering Department which includes both a pricing branch and an engineering branch.

Although NIB and its associated workshops are moving into a variety of new markets, the Federal Government as a customer continues to be the backbone of the employment services for blind and multihandicapped blind persons in the associated workshops. However, the Government Market is precise and demanding. Workshops for the blind must meet the same product specifications and delivery requirements as a private sector contractor. NIB will continue to place a priority emphasis on the support services which will enable workshops for the blind to enter into or continue in producing quality items for the Federal Government.

B. Finance Division

This division is responsible for all NIB financial, administrative, and personnel matters. It also assists the associated workshops in the areas of administration, legal matters, accounting and reporting systems, insurance plans and other fringe benefit programs, as well as taking responsibility for compiling annual workshop statistical reports. This division has four service areas which are as follows:

1. Accounting and Financial Management.
2. Convention Management and Meeting Planning.
3. SKILCRAFT Trademark Administration.
4. Central Purchasing.

C. Products and Sales Services Division

This division is responsible for the following:

1. Administration of the ballpoint pen sales program.
   a. Allocation of Government orders among workshops.
   b. Assistance to workshops in the development of State and local sales programs.
2. Military Resale Marketing and Distribution.
   a. Administration of the warehousing and distribution of all Military Resale Products from a series of SKILCRAFT warehouses to all branches of the military services for retail sales.

b. Development and market testing of SKILCRAFT products recommended for Military Resale by the Product Advisory Committee.

c. Allocation of overseas orders for approved items among associated workshops.

d. Administration of all marketing and sales efforts related to the Military Resale Program, including the management of a worldwide brokerage and shelf-stocking system.

3. Development and coordination of a national Subcontract Program.

This NIB program assists workshops in acquiring subcontract work from industry. It also utilizes a new approach to the development of subcontracts. Workshops for the blind are portrayed not only as reliable and efficient subcontractors, but also as "recruiting and training" agencies. This enables the subcontracting industry to seek qualified blind people from the workshops for potential hiring in its own work force.

NIB's national Subcontract Program has lead to the development of unique cooperative programs among NIB, industry, associated workshops for the blind, and State Agencies for the Blind. These programs have lead to increased employment of blind persons in competitive industry and have been of direct benefit to the participating industry in meeting its affirmative action obligations.

D. Rehabilitation Services Division

This division is primarily concerned with assisting the associated workshops in developing, expanding and improving their service programs for blind and multihandicapped blind persons. It has as its basic responsibilities the following:

1. Assisting the associated workshops in developing vocational evaluation, work adjustment, training, and placement programs for blind and multihandicapped blind persons.
2. Acting as a catalyst and liaison between Federal and State rehabilitation related agencies and the associated workshops for the blind.
3. Acting as a clearinghouse for the associated workshops regarding rehabilitation related legislation, regulations and literature.
4. Developing and implementing orientation and educational programs for Board Members of the associated workshops.
5. Working with workshops for the blind considering association with NIB and with interested persons and communities desiring to develop new workshop facilities to serve blind and multihandicapped blind persons.
6. Coordinating the activities of the NIB Rehabilitation Research and Training Department. This department is actively engaged in developing procedures and processes which can positively effect the potential of blind and multihandicapped blind persons receiving services in a workshop.

E. Legislative Affairs Division

This division grew out of the recognition of the vital need for full-time representation on the Washington scene. This division has as its three primary responsibilities the following:

1. Coordinating and advancing the position of workshops for the blind on issues which may critically impact on these organizations.
2. Working closely with the Legislative Committee of The General Council of Workshops for the Blind.
3. Disseminating information to workshops concerning legislation affecting workshops serving blind persons.

F. Public Affairs Division

The activities of this division are directed toward two separate but parallel objectives--namely, public affairs and public education assistance for the associated workshops; and secondly, public affairs and education for National Industries for the Blind. Public Affairs support for the associated workshops includes the following activities:

1. Assistance with Program planning.
2. Guidance in design and production of printed materials.
3. "How to" notes on various segments and tools of public affairs.
4. TV and radio spot announcements prepared for the workshops.

5. Participation in local events at the workshops.
6. Serving as a clearing house and circulating news of the workshops to the many publics.

Programs on the national level promote workshops for the blind in general. Some specific activities pursued in the interest of NIB's own public affairs program are:

1. Presenting and distributing information brochures - including the NIB Annual Report.
2. Attending, speaking and exhibiting in conjunction with other organizations.
3. Publishing in print and on recordings, "Opportunity," the NIB Newsletter.
4. Developing slide and film presentations.

HOW NIB ASSISTS THE ASSOCIATED WORKSHOPS

Assistance is provided to the associated workshops through the following:

1. Field visits to workshops.
2. National, regional and local conferences.
3. Individual, staff and Board consultation.
4. Correspondence and information relevant to our industry.
5. Advocacy of the workshops.
6. Workshop and staff training.

NIB Provides training courses for workshop Board Members and staff in the following areas:

1. Workshop Management Orientation.

2. Finance and Accounting for Workshops.
3. Public Relations/Personnel Relations.
4. Government Product Development.
5. Cost Analysis and Pricing.
6. Methods-Time Measurement.
7. Quality Assurance.
8. Orientation to Blindness.
9. Vocational Evaluation and Work Adjustment.
10. Board Orientation and Training.

SUMMARY

The increase in the number of multihandicapped blind persons in the NIB associated workshops has placed additional responsibilities on these shops. This trend is expected to continue. For this reason, NIB plans to strengthen its program for aiding workshops to develop increasingly effective evaluation, work adjustment and training services for these individuals. In this connection, NIB is also helping workshops for the blind to modify equipment and production techniques so as to assist these workshops in becoming more efficient. These NIB efforts combine improved management, engineering and business practices with sound rehabilitation procedures. Through this approach, workshops will be able to serve the more limited blind person ever more efficiently.

In order to continue to develop increased employment opportunities for blind and multihandicapped blind persons, NIB plans to continue its assistance to the associated workshops so they can expand their productive capabilities. The NIB owned SKILCRAFT trademark has long been recognized as a symbol of quality blind-made products. NIB will continue its efforts to see that this trademark is recognized by ever increasing numbers of people as being synonomous with quality.

While NIB provides no direct services for blind or multihandicapped blind persons, it has proven since its inception in 1938 to be a major force in developing employment opportunities for these persons through the workshop system. NIB will continue to assist workshops in developing employment opportunities for blind and multihandicapped blind persons either in the associated workshops or through the services provided by these organizations.

January 14, 1980

NATIONAL INDUSTRIES FOR THE BLIND
(OFFICE LOCATIONS)

PRINCIPAL OFFICE

1455 Broad Street
Bloomfield, NJ 07003
(201) 338-3804

Executive Vice President	George J. Mertz
Controller	Guy DeRossi
Vice President - Products & Sales Services	Daniel J. Boucher
Director - Public Affairs	R. T. (Deacon) Millard

REHABILITATION SERVICES DIVISION

320 Fulton Avenue
Hempstead, NY 11550
(516) 485-0230

Director - Rehabilitation Services	Harold Richterman

GOVERNMENT MARKETING DIVISION

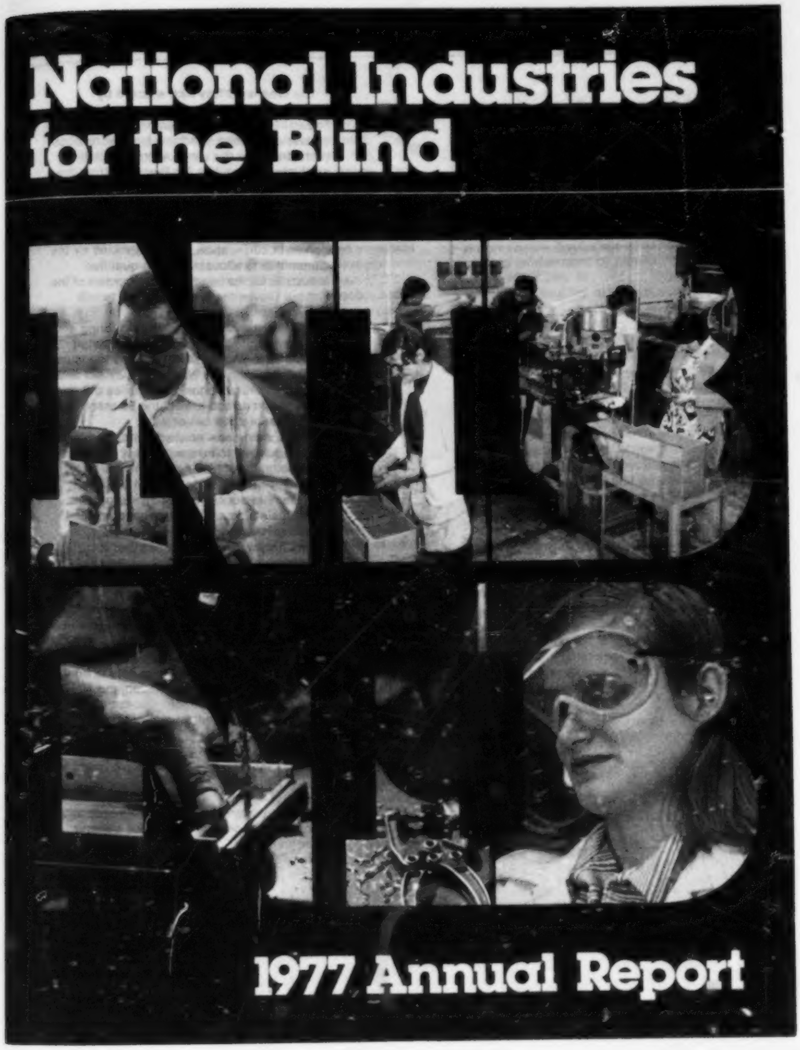
3530 Moncure Avenue
Falls Church, VA 22041
(703) 998-0770

Vice President - Government Marketing	James C. MacFarland
Vice President - Legislative Affairs	John W. Hanger

TECHNICAL CENTER

10679 Midwest Industrial Boulevard
St. Louis, MO 63132
(314) 423-3191

Director	Al H. Wiese



National Industries for the Blind

1977 Annual Report

What is NIB?

The Wagner-O'Day Act, enacted by Congress in 1938, directs agencies of the Federal Government to purchase, under certain conditions, products from workshops (industries) for the blind. A Presidentially-appointed Committee for Purchase from the Blind and Other Severely Handicapped is responsible for implementing the provisions of the Act.

National Industries for the Blind (NIB), a nonprofit corporation, was designated by the Committee to allocate, among qualified industries for the blind, purchase orders of the Federal Government for approved goods and services.

NIB is also responsible for monitoring and inspecting the activities of the associated industries for the blind in 37 states to insure compliance with the Wagner-O'Day Act and appropriate regulations. NIB carries out its responsibilities and assists the 91 associated industries in a number of ways:

- It researches new products and supervises the industries to insure contract compliance in production on all new items added to the Government Procurement List.
- NIB devises quality assurance programs and maintains a component and product testing laboratory.
- It maintains engineering services to increase plant efficiency, broadens and upgrades production opportunities for the blind and provides constant cost surveillance.
- NIB assists the industries in procurement of materials used in production.
- The Division of Rehabilitation Services of NIB works closely with all industries for the blind in establishing evaluation and training programs to make possible the greater employment of the multi-handicapped blind.
- NIB seeks job contracting opportunities in private industry to provide employment for blind people.
- For management and technical personnel, NIB, in conjunction with its demonstration workshop, conducts numerous training programs.

Message from the Chairman and President

A recent Gallup poll shows that of all physical disabilities, loss of sight is the most feared. Yet, as Helen Keller once said, "The curse of the blind is not blindness, but idleness." It is to eliminate this idleness that National Industries for the Blind (NIB) has as its goal the development of industrial employment opportunities for blind people throughout the United States.

NIB is composed of 91 associated industries for the blind, many of which are integral parts of agencies serving more than 43,000 blind and visually handicapped people each year. Of those served, over 5,300 are provided regular employment and this past year they produced a variety of products valued at $109 million. Of this amount $59 million were sales to the Federal Government, an increase of $13 million or 29% over last year. Sales to other markets were $50 million, reflecting an increase of 13% over last year.

Although sales are important, employment of the blind is, of course, paramount. The number employed increased 11% this year, and wages and fringe benefits paid to the blind increased by 23% to a record high of $18.2 million.

The NIB Board has approved new programs which will be devoted to the removal of some of the disincentives to work that have developed through legislation and regulation over recent years. We are committed to better informing our various publics concerning the associated industries for the blind, their programs and what they are accomplishing. To achieve these objectives, we have established a public information department in our New Jersey office and a legislative affairs office in Washington. The staffs of these two offices will concentrate initially on the following:

- NIB will work with others to change some provisions of Supplemental Security Income and Social Security Disability Insurance. Legislation portions of these programs now discourage blind people from seeking employment by penalizing them financially if they do.
- We want to help the individual associated industries establish local public relations or information programs.
- We will work diligently to explain our programs to business executives for we feel strongly that well informed, cooperative private industries can and will do much to assist us.
- Another thrust of our public information effort will be toward members of Congress who represent states in which NIB agencies are located. They, too, should know of our objectives and progress toward helping blind people achieve economic and social independence.
- Without jeopardizing individual rights, we will try to insure that no restrictions interfering with training and employment of the multihandicapped blind are placed on our associated industries.

In other areas, during this past year, we expanded our workshop personnel training programs and established two pilot projects with private industry. These are reviewed along with other aspects of NIB's programs on the following pages.

Thor W. Kolle Jr.

Thor W. Kolle Jr.
Chairman

Abram Claude Jr.

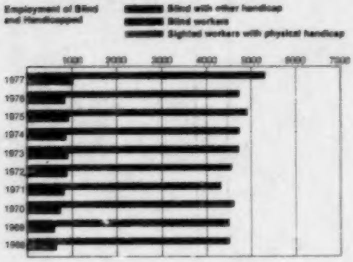
Abram Claude, Jr.
President
September 30, 1977

Thor W. Kolle, Jr.

Abram Claude, Jr.

1977 Highlights

Vice President Walter F. Mondale, pictured (left to right) with Clyde Cook, Chairman, Committee for Purchase from the Blind and Other Severely Handicapped; Thor W. Kolle, Chairman of the Board, National Industries for the Blind; and William Thompson, President of The General Council of Workshops for the Blind.


Employment of Blind and Handicapped
Blind with other handicap
Blind workers
Sighted workers with physical handicap
1000
2000
3000
4000
5000
6000
7000
1977
1976
1975
1974
1973
1972
1971
1970
1969
1968

NIB and the General Council of Workshops for the Blind, including staff, management and board members of the NIB associated industries, met in St. Petersburg, Florida, and Washington, D.C.

•

The Washington, D.C., meeting was addressed by Vice President Walter F. Mondale; The Honorable Joel Solomon, Administrator of General Services Administration; and Clyde Cook, Chairman, Committee for Purchase from the Blind and Other Severely Handicapped.

•

Two orientation training seminars for 40 new management staff members of NIB associated industries were conducted by the NIB staff at Royal Maid, Inc., NIB demonstration workshop, Hazlehurst, Mississippi.

•

Average hourly wages to blind workers, total wages to blind employees, total sales, and number of blind people employed all reached the highest peak of any time in NIB history.

•

NIB formed the two new administrative divisions of Legislative Affairs and Public Relations.

•

ITT completed the first pilot industrial placement program for blind workers at the ITT plant in Corinth, Mississippi.

•

More than 200 representatives of agencies for the blind, including a delegation from Russia, visited and inspected facilities at Royal Maid, Inc., NIB demonstration workshop.

Clockwise from top: Vickie Norris, employed by Southwest Lighthouse for the Blind, Lubbock, Texas, is the 1977 recipient of the Peter J. Salmon Award to the Blind worker of the Year . . . Jack Webber accepts NIB citation for industrial placement of blind workers in ITT . . . Douglas Price, former Executive Director, Mississippi Industries for the Blind, is the recipient of the R.B. Irwin Award for 1977 . . . Ted Workman, past Chairman of the Board of Dallas County Association for the Blind, was named Workshop Board Member of the year.

NIB and Government Cooperate to Serve Blind People

Soldier with blind-made equipment including canteen cover, bayonet scabbard, belt, helmet cover and strap, rifle sling, first aid case and ammunition pocket.

NIB continues to work closely with the Committee for Purchase from the Blind and Other Severely Handicapped. This year the NIB Government Marketing Division added 34 products to the list of products to be purchased from the blind by the Federal Government under the Javits-Wagner-O'Day Act. The addition of these items created over 200 new jobs for blind people and sales volume of $5 million. The added sales coupled with healthy increases in the sale of other government products yielded $59 million in blind-made products sold to the Government during the year, an increase of $13 million over last year and the highest in NIB history. Included in this is the $6 million in household and hardware items sold in military commissaries and exchanges throughout the world. The sale of blind-made products in military resale stores is also under the authority of the Javits-Wagner-O'Day Act.

In conjunction with the sale and distribution of blind-made products, NIB provides numerous services to its associated industries (workshops) and to the government.

Highlighted elsewhere in this report is the NIB Technical Center in St. Louis, Missouri. Equally significant are the contributions of the Industrial Engineering and Manufacturing Engineering Departments of the Government Marketing Division. These professionally staffed departments provide the NIB associated industries with cost data, product research information, efficient manufacturing techniques, component purchasing and quality control. Government Marketing Division staff members are available to NIB associated industries (workshops) on a daily basis. And this year 60 representatives of NIB associated industries attended NIB technical training schools.

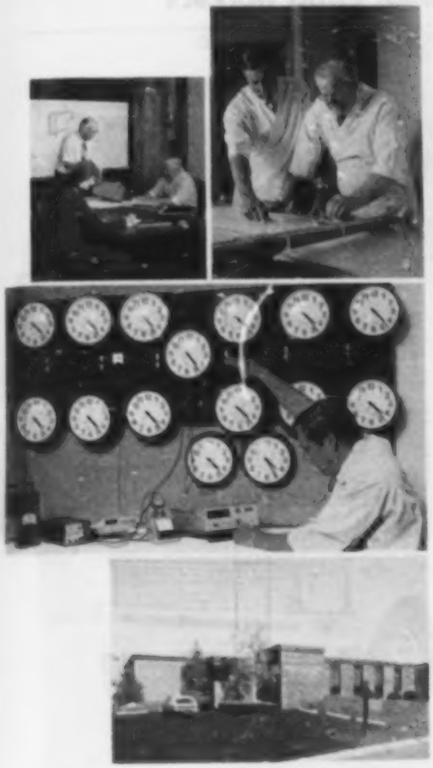
Clockwise from top: Stitching pillow covers for military use . . . SKILCRAFT product for sale in military stores . . . SKILCRAFT identifies products by blind craftsmen . . . Production of Army web belts . . . Injection molding machine manufactures plastic cutlery for government use . . . Assembling ballpoint pens.

NIB Technical Services Improve Efficiency

Environmental control ovens for testing government products at National Industries for the Blind Technical Center in St. Louis, Missouri.

Contributing immeasurably to the accomplishments of the NIB Government Marketing Division in assisting the 91 associated agencies is the NIB Technical Center at St. Louis, Missouri. In this modern, well-equipped facility, a competent engineering staff provides support to the other departments of the Government Marketing Division in the identification of new products that can be manufactured by blind workers. Toward that end, the Technical Center this year prepared feasibility studies on 50 products for 36 production industries of NIB.

Both government as the customer and the NIB associated industries as producers are greatly assisted by the activities of the Center in areas of component testing, quality assurance, and product research and development.



Clockwise from top: Engineers check product specifications . . . quality control . . . National Industries for the Blind Technical Center in St. Louis, Missouri . . . Product development.

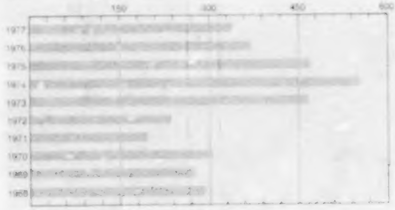
NIB and Private Industry Provide Employment for Blind Workers

Welcome To
ITT
Telecommunications
ITT WELCOMES ITS FIRST BLIND EMPLOYEES

ITT welcomes its first blind employees as part of its industrial placement program.

Clockwise from top: Manufacturing for the Boeing Company . . . Blind woman sews racket cover for AMF (Head Division) . . . Western Electric subcontract work . . . Subcontracted industrial drilling operation.

Placement of Blind in Private Industry



General Electric, Boeing Company, ITT, Proctor and Gamble, Western Electric, Eastern Airlines, AMF (Head Division) — these are a few of the national corporations contracting products and services to industries for the blind in the United States. Utilizing modern equipment operated by skilled craftsmen, blind employees are proving that they are capable of turning out quality work at competitive prices.

"Working with Industry" is a major emphasis of National Industries for the Blind. This program provides employment in private industry for the blind while complementing the Affirmative Action efforts of the participating companies.

This year ITT Corporation, which has been subcontracting with industries for the blind since 1975, clearly demonstrated its support of Affirmative Action by working with NIB on a pilot industrial placement program in the ITT plant at Corinth, Mississippi. After several months in a training program, 12 blind persons have become full time employees of ITT. For leadership in employment of blind people, ITT has received the commendation of Vice President Walter F. Mondale and other government leaders. It is the hope of NIB that other companies will also place trained blind employees in their production facilities, especially in those areas where there are no established industries for the blind.

The "enclave" concept (a satellite industry for the blind situated in a private industrial plant) could also help industry meet future Affirmative Action requirements and aid NIB in finding new opportunities for the employment of blind people. One associated industry of NIB, Tampa Lighthouse for the Blind, has initiated an enclave test program with Crest Chemical Company of Florida.

Rehabilitation Places Blind People in Jobs They Do Best

Evaluation Center at Royal Maid, National Industries for the Blind demonstration workshop, Hazlehurst, Mississippi.

LIGHTHOUSE FOR THE BLIND

Industries for the blind have a dual role. First, they provide the work. But more importantly, they seek to place blind workers in jobs they perform most proficiently.

NIB Rehabilitation Service Division, in cooperation with Royal Maid, Inc., NIB demonstration workshop, has taken major steps toward developing a vocational evaluation system designed specifically for blind people. Instructions for building and operating the mechanical units of the system and evaluating the information they record are now available to NIB associated agencies at no cost. Some industries have purchased the equipment and have it operable in their own plants. Others have viewed it and are considering installation at an early date.

The NIB Rehabilitation Division continues extensive activities in other fields as well. Working with various state agencies for the blind, the Division this year conducted four seminars for personnel working in industries for the blind. Included were three in vocational evaluation and one in orientation to blindness. The Division also responded to numerous requests from communities interested in starting new specialized industries for the blind and assisted existing industries toward association with NIB.

The staff of the NIB Rehabilitation Division has played an important role in orientation of board members of individual industries. This service enables board members to serve more effectively and to better utilize the facilities and services of NIB.

Clockwise from top: Blind girl being evaluated for vocational skills necessary to operate a drill press . . . NIB associated industry provides mobility training . . . An aerial view of Royal Maid, NIB demonstration workshop, Hazlehurst, Mississippi . . . The blind worker profits from evaluation and training . . . Multifunctional Work Task Unit to test worker's coordination, material control and memory.

NIB Associated Industries

ALABAMA
Industries for the Blind
P.O. Drawer 17
Talladega, AL 35160

ARIZONA
Arizona Industries for the Blind
3013 West Lincoln Street
Phoenix, AZ 85009

ARKANSAS
Arkansas Lighthouse for the Blind
69th and Murray Streets
Little Rock, AR 72209

CALIFORNIA
California Industries for the Blind, Inc.
1255 Park Avenue
Emeryville, CA 94608

California Industries for the Blind, Inc.
840 Santee Street
Los Angeles, CA 90014

California Industries for the Blind, Inc.
1344 F Street
San Diego, CA 92101

San Francisco Lighthouse for the Blind, Inc.
BLINDCRAFT
1097 Howard Street
San Francisco, CA 94103

COLORADO
Rehabilitation Center for the Visually Impaired
100 West Seventh Avenue
Denver, CO 80204

CONNECTICUT
Board of Education and Services for the Blind
170 Ridge Road
Wethersfield, CT 06109

DELAWARE
Delaware Bureau for the Visually Impaired
305 West Eighth Street
Wilmington, DE 19801

DISTRICT OF COLUMBIA
Columbia Lighthouse for the Blind
1421 P Street, N.W.
Washington, DC 20005

FLORIDA
Tampa Lighthouse for the Blind
1106 West Platt Street
Tampa, FL 33606

Lions Industries for the Blind, Inc.
7810 South Dixie
West Palm Beach, FL 33405

GEORGIA
Georgia Factory for the Blind
59 Ormond Street, S.E.
Atlanta, GA 30315

Georgia Factory for the Blind
Faceville Highway
P.O. Box 218
Bainbridge, GA 31717

Georgia Factory for the Blind
Emlet Drive
P.O. Box 98
Griffin, GA 30224

HAWAII
Ho'opono Center for the Blind
1901 Bachelot Street
Honolulu, HI 96817

ILLINOIS
The Chicago Lighthouse for the Blind
1850 West Roosevelt Road
Chicago, IL 60608

KANSAS
Kansas Industries for the Blind
925 Sunshine Road
Kansas City, KS 66115

Kansas Industries for the Blind
425 MacVicar Street
Topeka, KS 66606

Kansas Foundation for the Blind, Inc.
801 East Lincoln Street
P.O. Box 2355
Wichita, KS 67201

KENTUCKY
Kentucky Industries for the Blind
1900 Brownsboro Road
Louisville, KY 40206

LOUISIANA
The Lighthouse for the Blind
123 State Street
New Orleans, LA 70118

Shreveport Association for the Blind
1750 Claiborne Avenue
P.O. Box 3821
Shreveport, LA 71103

MAINE
The Maine Institution for the Blind
189 Park Avenue
Portland, ME 04102

MARYLAND
Baltimore Training and Work Center/
Blind Industries and Services of Maryland
2901 Strickland Street
Baltimore, MD 21223

Blind Industries and Services of Maryland
Western Maryland Division
322 Paca Street
Cumberland, MD 21502

Blind Industries and Services of Maryland
Eastern Shore Division
Northwood Industrial Park
P.O. Box 2133
Salisbury, MD 21801

MASSACHUSETTS
Workshop for the Blind
72 Second Street
Cambridge, MA 02141

MINNESOTA
Duluth Lighthouse for the Blind
7 North 27th Avenue West
Duluth, MN 55806

The Minneapolis Society for the Blind, Inc.
1936 Lyndale Avenue South
Minneapolis, MN 55403

St. Paul Society for the Blind
216 South Wabasha Street
St. Paul, MN 55107

MISSISSIPPI
Royal Maid, Inc.
Hansen Road
P.O. Drawer 30
Hazlehurst, MS 39083

Mississippi Industries for the Blind
2501 North West Street
P.O. Drawer 4417
Jackson, MS 39216

MISSOURI
Kansas City Association for the Blind
1844 Broadway
Kansas City, MO 64108

The Lighthouse for the Blind
2315-21 Locust Street
St. Louis, MO 63103

NEW JERSEY
New Jersey Commission for the Blind
and Visually Impaired
232 Frelinghuysen Avenue
Newark, NJ 07114

New Jersey Commission for the Blind
and Visually Impaired
209 Highland Avenue
Westmont, NJ 08108

NEW MEXICO
New Mexico Industries for the Blind
2200 Yale Boulevard, S.E.
Albuquerque, NM 87106

NEW YORK
Albany Association of the Blind, Inc.
301 Washington Avenue
Albany, NY 12206

Blind Work Association, Inc.
55 Washington Street
Binghamton, NY 13901

IHB Industries/The Industrial Home
for the Blind
1000 Atlantic Avenue
Brooklyn, NY 11238

IHB Industries/The Industrial Home
for the Blind
520 Gates Avenue
Brooklyn, NY 11216

IHB Industries/The Industrial Home
for the Blind
Building 40
Suffolk Developmental Center
South Road
P.O. Box 1003
Melville, NY 11746

Blind Association of Western New York
1170 Main Street
Buffalo, NY 14209

Lighthouse Industries/The New York
Association for the Blind
36-20 Northern Boulevard
Long Island City, NY 11101

The Jewish Guild for the Blind
111 Eighth Avenue
New York, NY 10011

The Jewish Guild for the Blind
15 West 65th Street
New York, NY 10023

Central Association for the Blind, Inc.
301 Court Street
Utica, NY 13502

NORTH CAROLINA
Lions Club Industries for the Blind
of Western North Carolina, Inc.
639 Biltmore Avenue
Asheville, NC 28803

Lions Club Industries for the Blind, Inc.
1810 East Main Street
P.O. Box 11215
Durham, NC 27703

Industries of the Blind, Inc.
920 West Lee Street
P.O. Box 3544
Greensboro, NC 27402

Lions Industries for the Blind, Inc.
500 East Lenoir Avenue
P.O. Box 454
Kinston, NC 28501

Raleigh Lions Clinic for the Blind, Inc.
315 Hubert Street
Raleigh, NC 27603

Industries for the Blind
701 North Main Street
Winston-Salem, NC 27101

OHIO
Cincinnati Association for the Blind
2045 Gilbert Avenue
Cincinnati, OH 45202

Clovernook Home and School for the Blind
7000 Hamilton Avenue
Cincinnati, OH 45231

The Cleveland Society for the Blind
2275 East 55th Street
Cleveland, OH 44103

The Vision Center of Central Ohio
2470 Cleveland Avenue
Columbus, OH 43211

Youngstown Society for the Blind
and Disabled
2246 Glenwood Avenue
Youngstown, OH 44511

OKLAHOMA
Oklahoma League for the Blind
501 North Douglas Avenue
Oklahoma City, OK 73106

OREGON
Oregon Industries for the Blind
535 S.E. Twelfth Street
Portland, OR 97214

PENNSYLVANIA
Lehigh County Branch/
Pennsylvania Association for the Blind, Inc.
614 North Thirteenth Street
Allentown, PA 18102

Delaware County Branch/
Pennsylvania Association for the Blind
100-106 West 15th Street
Chester, PA 19013

Chester County Association for the Blind, Inc.
71 South First Avenue
Coatesville, PA 19320

Center for the Blind
36th Street and Lancaster Avenue
Philadelphia, PA 19104

Pittsburgh Blind Association
300 South Craig Street
Pittsburgh, PA 15213

Washington-Greene County Branch
Pennsylvania Association for the Blind, Inc.
254 North Main Street
Washington, PA 15301

PUERTO RICO
Puerto Rico Industries for the Blind Corp.
Box 8627
Santurce, PR 00910

TENNESSEE
A.P. Mills Industries for the Blind
346 St. Paul Street
P.O. Box 2175 — DeSoto Station
Memphis, TN 38101

Volunteer Blind Industries, Inc.
758 West First South Street
Morristown, TN 37814

Mason Brandon Industries for the Blind
4110 Charlotte Avenue
P.O. Box 90227
Nashville, TN 37209

TEXAS
Southwest Lighthouse for the Blind
409 South Cleveland
P.O. Box 31000
Amarillo, TX 79102

Travis Association for the Blind
2831 Manchaca Road
P.O. Box 3297
Austin, TX 78764

South Texas Lighthouse for the Blind
1907 Leopard Street
P.O. Box 9697
Corpus Christi, TX 78408

Dallas County Association for the Blind
3940 Capitol Avenue
P.O. Box 64420
Dallas, TX 75206

El Paso County Association for the Blind
100 Dunne Avenue
El Paso, TX 79905

Tarrant County Association for the Blind
912 West Broadway
Fort Worth, TX 76104

Lighthouse for the Blind of Houston
3530 West Dallas
P.O. Box 13435
Houston, TX 77019

Southwest Lighthouse for the Blind
607 Main Street
P.O. Box 10102
Lubbock, TX 79408

West Texas Lighthouse for the Blind, Inc.
30 North Chadbourne
San Angelo, TX 76903

San Antonio Association for the Blind
2305 Roosevelt Avenue
P.O. Box 10230
San Antonio, TX 78210

Waco Lighthouse for the Blind
700 South 15th Street
Waco, TX 76706

Beacon Lighthouse for the Blind
300 Seventh Street
Wichita Falls, TX 76301

UTAH
Utah Services for the Visually
Handicapped
1595 West Fifth South
Salt Lake City, UT 84104

VERMONT
Vermont Workshop for the Blind
c/o Vermont Allied Services
103 Main Street
Waterbury, VT 05676

VIRGINIA
Virginia Industries for the Blind
1102 Monticello Road
P.O. Box 259
Charlottesville, VA 22902

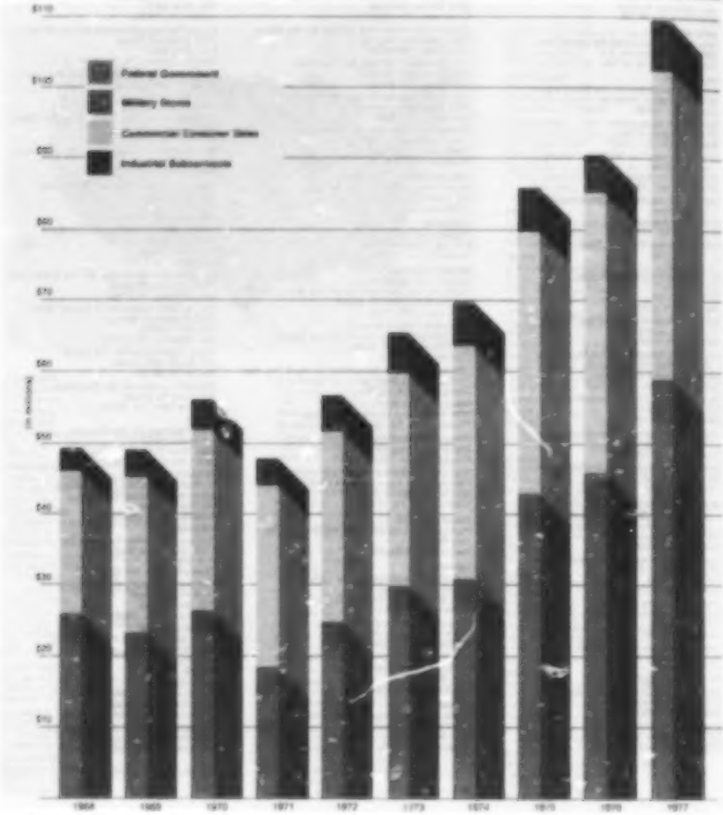
Virginia Industries for the Blind
1535 High Street
P.O. Box 27563
Richmond, VA 23261

WASHINGTON
The Lighthouse for the Blind, Inc.
2501 South Plum Street
P.O. Box C-14119
Seattle, WA 98114

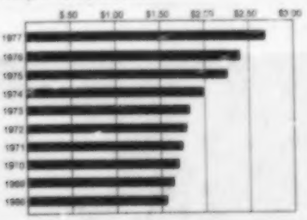
WISCONSIN
Industries for the Blind
3220 West Vliet Street
Milwaukee, WI 53208

Wisconsin Workshop for the Blind
5316 West State Street
Milwaukee, WI 53208

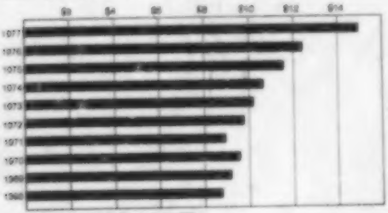
NIB Ten-Year Sales Summary



Average Hourly Wage to the Blind



Annual Wages Paid to Blind Workers* (in millions)



*Fringe benefits of $[illegible] were paid in 1977

1977 saw new records set by NIB associated industries for the number of blind people employed, average hourly wage to blind employees, total wages to blind employees, commercial sales and sales to the Federal Government.

Included in total employment were 1,014 sighted workers with physical handicaps other than blindness who earned $3,961,196 during 1977 with fringe benefits of $771,912 for a total of $4,733,108.

Included in the sale of commercial consumer products was morethan $9.1 million to procurement activities of many state governments. Enactment of legislation by the individual states to extend priorities to industries for the blind within their boundaries is rapidly spreading and providing many additional jobs for blind citizens of those states. NIB offers assistance to the states and the NIB associated agencies in securing passage of State Use Laws.

The figures in this report are as of the close of the Federal Government fiscal year, September 30, 1977.

ANNUAL SALES

Year	Federal Government	Military Stores	Commercial Consumer Products	Industrial Subcontracts	Totals
1968	22,367,440	3,286,307	20,288,558	3,383,901	49,327,235
1969	19,581,515	3,468,217	22,151,040	2,928,594	48,127,344
1970	23,906,781	3,142,846	25,546,770	4,272,169	55,868,205
1971	14,786,391	3,661,187	25,737,811	3,766,290	47,952,229
1972	20,687,480	3,846,656	27,096,718	4,961,086	56,594,892
1973	25,916,287	3,949,636	29,882,683	5,526,938	65,275,537
1974	26,128,766	4,389,882	[illegible]	6,490,057	69,824,984
1975	37,139,616	5,585,701	[illegible]	5,868,405	85,802,452
1976	39,541,136	[illegible]	39,594,298	5,169,087	90,347,931
1977	52,717,058	5,993,983	43,478,861	7,312,828	109,502,730

"The curse of the blind is not blindness, but idleness"...

Blind employee sews government mailing bags

NIB Board of Directors

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Senior Vice President
Hornblower, Weeks, Noyes & Trask, Inc.
New York, NY

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Abram Claude, Jr.*
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Shreveport, LA

Austin G. Scott
Executive Director
Dallas County Association for the Blind
Dallas, TX

William S. Thompson*
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Robert H. Bennett
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Conway Harris
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Kansas City, MO

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Houston, TX

Claude W. Hirsch
Executive Vice President
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Milton A. Jahoda*
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Cincinnati, OH

M. Shy Meeker
Director
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FMC Corporation
Chicago, IL

Ray Miller
Manager of Shops
Industries for the Blind
Talladega, AL

Ed I. Mills, Jr.
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San Antonio Association for the Blind
San Antonio, TX

Jansen Noyes, Jr.*
Chairman of the Board
Hornblower, Weeks, Noyes & Trask, Inc.
New York, NY

Ernest A. Ochel
Wichita, KS

Offices

Principal Office:
1455 Broad Street
Bloomfield, NJ 07003

Government Marketing Division Office:
1511 K Street, N. W.
Washington, DC 20005

Legislative Affairs Office:
1511 K Street, N. W. — Room 327
Washington, DC 20005

Technical Center:
10879 Midwest Industrial Boulevard
St. Louis, MO 63132

Rehabilitation Services Division Office:
2020 Jericho Turnpike
New Hyde Park, NY 11040

NIB ADMINISTRATIVE ORGANIZATION

Executive Vice President
Noel B. Price

Vice President—Legislative Affairs
John W. Hanger

Vice President—Government Marketing
James C. MacFarland

Vice President—Controller
George J. Mertz

Director—Product and Sales Services
Daniel J. Boucher

Director—Public Relations
R. T. Millard

Director—Rehabilitation Services
Harold Richterman

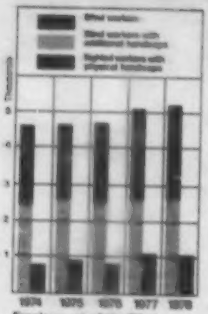
Auditors
Peat, Marwick, Mitchell & Company
Newark, NJ

*Denotes Member of the Executive Committee

Produced by
The Foote System
Caldwell, NJ 07006

1978 Annual Report
National Industries for the Blind

Mission and Concept of NIB



Employment of the Blind and Handicapped

Mission of NIB

The Wagner-O'Day Act, enacted by Congress in 1938 and amended in 1971 as the Javits-Wagner-O'Day Act, directs agencies of the United States Government to purchase, under certain conditions, products and services from workshops for the blind. The Presidentially appointed Committee for Purchase from the Blind and Other Severely Handicapped was established to implement the provisions of the Act.

National Industries for the Blind, a nonprofit corporation, was designated by the Committee to allocate among qualified workshops for the blind, purchase orders of the government for specified products and services.

NIB was also charged with monitoring the associated workshops for the blind to assure compliance with the Javits-Wagner-O'Day Act and contract specifications. In the forty years since its inception NIB has fulfilled its basic responsibility but has also widely broadened the service it provides to the associated workshops and the blind workers in them.

The NIB Concept

It is the intent and goal of NIB that every blind person capable of working at any level of employment will be provided a job opportunity. These job opportunities may be in one of several programs.

Work Activities Centers

These provide employment for even the most limited blind people. Many of the blind workers served in these centers come from custodial institutions.

Special Workshops

In this situation the worker continues to receive close supervision and intense rehabilitative training.

Competitive Industry

Where jobs can be found workers may be placed alongside sighted workers in outside industry.

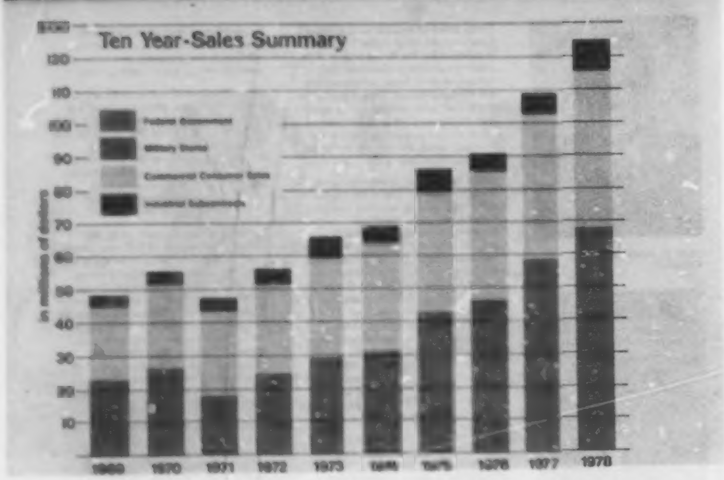
Industries for the Blind

If acceptable employment cannot be found in sighted industry, placement is made in an industry for the blind.

To accomplish the goal of employment for all blind persons wanting to work, NIB recognizes evaluation and rehabilitation as the key to the proper vocational placement.

NIB offers extensive rehabilitation services to the associated workshops. It also assists them in modifying the working environment to yield maximum productivity and satisfaction for blind workers.

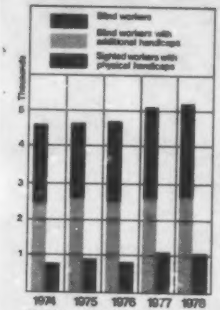
Cover photo: Buford Bame, a blind employee is pictured sewing military helmet neckbands at Industries for the Blind in Winston-Salem, North Carolina.



Annual Sales

Year	Federal Government	Military Stores	Commercial Consumer Products	Industrial Subcontracts	Totals
1969	$19,581,515	$3,466,217	$22,151,048	$ 3,928,564	$ 49,127,344
1970	23,006,781	3,142,546	25,546,770	4,272,109	55,968,206
1971	14,788,361	3,561,127	25,737,511	3,765,230	47,852,229
1972	20,667,430	3,845,658	27,030,718	4,981,086	56,524,892
1973	25,916,297	3,949,638	29,882,693	5,526,909	65,275,537
1974	26,136,786	4,390,882	32,915,258	6,480,057	69,924,984
1975	37,139,818	5,505,701	37,288,527	5,868,406	85,802,452
1976	39,541,136	6,062,532	39,584,206	5,160,057	90,347,931
1977	52,717,056	5,993,983	43,478,881	7,312,808	109,502,730
1978	$61,346,061	$6,736,043	$45,829,636	$ 9,814,304	$123,728,044

Mission and Concept of NIB



Employment of the Blind and Handicapped

Mission of NIB

The Wagner-O'Day Act, enacted by Congress in 1938 and amended in 1971 as the Javits-Wagner-O'Day Act, directs agencies of the United States Government to purchase, under certain conditions, products and services from workshops for the blind. The Presidentially appointed Committee for Purchase from the Blind and Other Severely Handicapped was established to implement the provisions of the Act.

National Industries for the Blind, a nonprofit corporation, was designated by the Committee to allocate among qualified workshops for the blind, purchase orders of the government for specified products and services.

NIB was also charged with monitoring the associated workshops for the blind to assure compliance with the Javits-Wagner-O'Day Act and contract specifications. In the forty years since its inception NIB has fulfilled its basic responsibility but has also widely broadened the service it provides to the associated workshops and the blind workers in them.

The NIB Concept

It is the intent and goal of NIB that every blind person capable of working at any level of employment will be provided a job opportunity. These job opportunities may be in one of several programs.

Work Activities Centers

These provide employment for even the most limited blind people. Many of the blind workers served in these centers come from custodial institutions.

Special Workshops

In this situation the worker continues to receive close supervision and intense rehabilitative training.

Competitive Industry

Where jobs can be found workers may be placed alongside sighted workers in outside industry.

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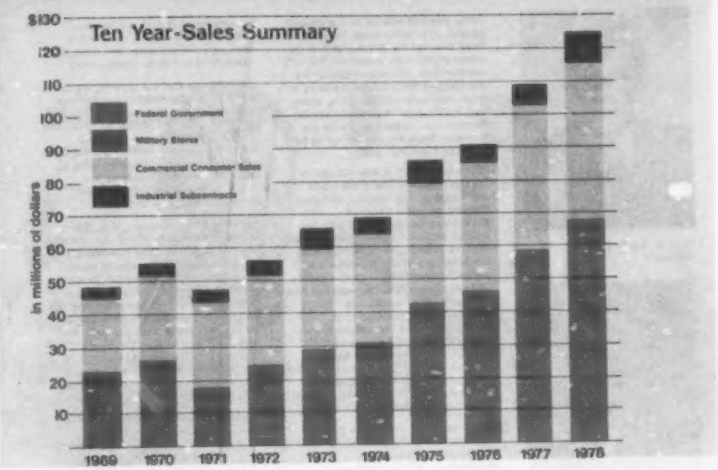

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Message from the Chairman and President

Thor W. Kolle, Jr.
Chairman

Abram Claude, Jr.
President

Forty years of service to the visually handicapped have made National Industries for the Blind proud of its accomplishments. However, NIB will not stand on this record alone. We are pledged as individuals and as an organization to use all of our energy and ability and resources to create employment opportunities for the working blind. We intend not to be deterred from this goal.

In the beginning, it was not unlike a cottage industry where the crafts of chair caning, rug weaving and mop making were the standard. Experience taught us that with the help of sophisticated engineering and modern production line techniques, the blind can produce products and perform services for both the public and private sectors. Our aim has been to assure them continuous employment opportunities by competing in the marketplace with products that sell because of their quality and price and not because they are labeled "blind-made" to elicit public sympathy. Included are sophisticated items manufactured or assembled in modern facilities.

Blindness is no longer the only handicap with which our shop administrators must deal. Increasingly, we are serving the multihandicapped blind who last year accounted for approximately 50% of those employed in NIB affiliated shops. Rehabilitation and evaluation services have had to change dramatically to deal effectively with the different needs of multihandicapped blind people.

We not only provide services to the shops which will encourage full production opportunities for those able to work in an industrial atmosphere at competitive wages, but we also make available sheltered employment for those whose additional handicaps limit production. With this dual approach, NIB creates occupational opportunities for all members of the blind community who seek the personal and economic rewards of full-time employment.

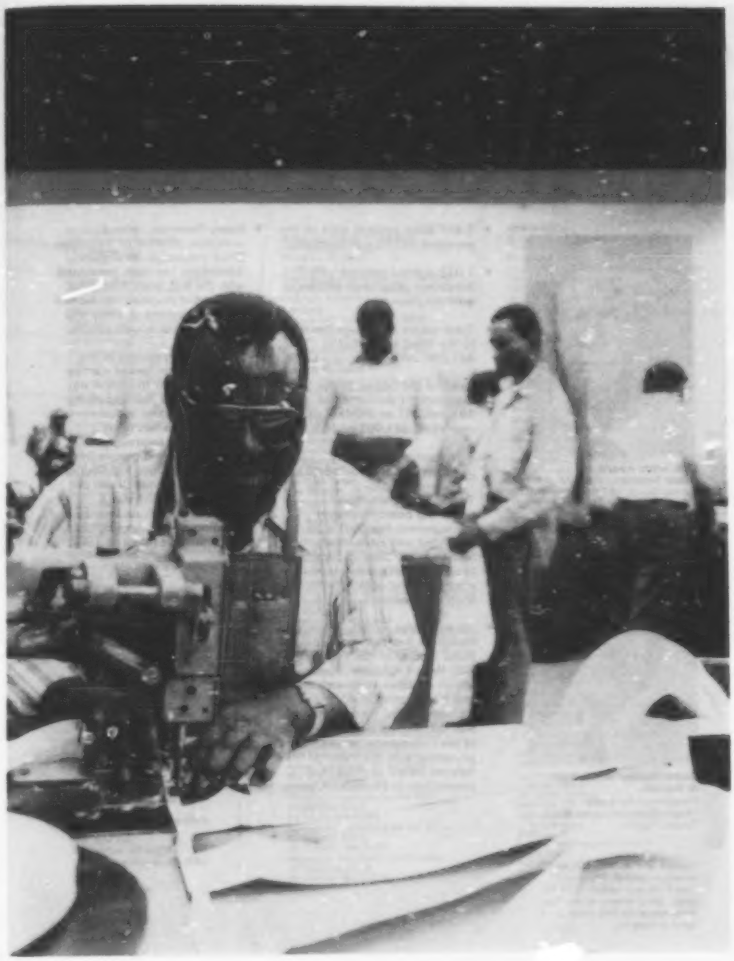
As a measure of our growth, we can point to the increase in sales of our affiliated shops from only $2,321,000 in 1939 to $123,728,000 in 1978. The truly significant measure of our success, however, is the $21,300,000 paid in wages and fringe benefits to the 5,453 visually handicapped workers employed in the regular workshop program in 1978.

In this 40th anniversary year, the Board of Directors of NIB commends the NIB staff, the shop managers and administrators whose efforts make our programs so successful. Despite problems that have arisen in recent months, it is beyond question that we have the most effective program in the country for assisting a large and important segment of the blind community. We should be proud of this fact and be greatly encouraged that we make it possible for them to lead meaningful and productive lives.

In acknowledging the continuing fine performance of NIB workshop managers and personnel, it should also be emphasized that it is going to take strength, tenacity and resourcefulness to maintain the workshop program at its present, highly effective level. We are confident we are right in our approach and are certain that with everyone's help and enthusiasm, we shall succeed.

Thor W. Kolle Jr.
Thor W. Kolle, Jr.
Chairman

Abram Claude Jr.
Abram Claude, Jr.
President
March 1, 1979



The Year in Review

R. B. Irwin Award
Kemp Newman,
Retired Executive Director
Volunteer Blind Industries
Morristown, Tennessee

Board Member of the Year
Al Desilet,
President of the Board
Tampa Ligthouse for the Blind
Tampa, Florida

Cephus W. Munford, left, an employee of IHB, Brooklyn, New York was named 1978 National Blind Worker of the Year. He received the NIB Peter J. Salmon Award.

- 5,453 blind persons were provided gainful employment.
- 1,032 sighted persons with handicaps other than blindness were employed.
- Total wages and fringe benefits to the blind amounted to $21,338,307.
- Sales to the United States Government amounted to $61,348,061 an increase this year of $8,631,003 or 16%.
- Sales under the military program reached $6,736,043.
- Training programs for workshop board members, management and staff were expanded and intensified. Subjects included cost analysis, product development, quality assurance and general workshop management.
- An employee of IHB, Brooklyn, New York has been named Blind Worker of the Year by NIB. He is Cephus W. Munford whose qualities as an employee and leader, both at work and in his community, have earned him the respect and appreciation of his colleagues. He was presented with the Peter J. Salmon award at NIB's May convention in Phoenix, Arizona.
- Kemp Newman, retired executive director of Volunteer Blind Industries, Morristown, Tennessee has been presented with the R.B. Irwin Award for his outstanding contribution to the employment of blind and visually handicapped people.
- Al Desilet, President of the Board of Directors of Tampa Lighthouse for the Blind was named Board Member of the Year by National Industries for the Blind. He has been dedicated to improving services to blind people in the Tampa area since his election to the Lighthouse Board in 1974. Mr. Desilet was a member of both its finance and building committees before becoming president in 1977.

NIB Associated Industries

ALABAMA
Industries for the Blind
P.O. Drawer 17
Talladega, AL 35160

ARIZONA
Arizona Industries for the Blind
3013 West Lincoln Street
Phoenix, AZ 85009

ARKANSAS
Arkansas Lighthouse for the Blind
69th and Murray Streets
Little Rock, AR 72209

CALIFORNIA
California Industries for the Blind, Inc
1255 Park Avenue
Emeryville, CA 94608

California Industries for the Blind, Inc.
582 Monterey Pass Road
Monterey Park, CA 91754

California Industries for the Blind, Inc.
1344 F Street
San Diego, CA 92101

San Francisco Lighthouse for
the Blind, Inc.
BLINDCRAFT
1097 Howard Street
San Francisco, CA 94103

COLORADO
Rehabilitation Center for the Visually
Impaired
100 West Seventh Avenue
Denver, CO 80204

CONNECTICUT
Board of Education and Services
for the Blind
170 Ridge Road
Wethersfield, CT 06109

DELAWARE
Delaware Division for the Visually
Impaired
305 West Eighth Street
Wilmington, DE 19801

DISTRICT OF COLUMBIA
Columbia Lighthouse for the Blind
1421 P Street, N.W.
Washington, DC 20005

FLORIDA
Tampa Lighthouse for the Blind
1106 West Platt Street
Tampa, FL 33606

Lighthouse for the Blind of the
Palm Beaches, Inc.
7810 South Dixie Highway
West Palm Beach, FL 33405

GEORGIA
Georgia Factory for the Blind
59 Ormond Street, S.E.
Atlanta, GA 30315

Georgia Factory for the Blind
Faceville Highway
P.O. Box 218
Bainbridge, GA 31717

Georgia Factory for the Blind
Emlet Drive
P.O. Box 98
Griffin, GA 30224

HAWAII
Ho'opono Center for the Blind
1901 Bachelot Street
Honolulu, HI 96817

ILLINOIS
The Chicago Lighthouse for the Blind
1350 West Roosevelt Road
Chicago, IL 60608

KANSAS
Kansas Industries for the Blind
925 Sunshine Road
Kansas City, KS 66115

Kansas Industries for the Blind
425 MacVicar Street
Topeka, KS 66606

Kansas Foundation for the Blind, Inc.
201 East Lincoln Street
P.O. Box 2355
Wichita, KS 67201

KENTUCKY
Kentucky Industries for the Blind
1900 Brownsboro Road
Louisville, KY 40206

LOUISIANA
The Lighthouse for the Blind
123 State Street
New Orleans, LA 70118

Shreveport Association for the Blind
1750 Claiborne Avenue
P.O. Box 3821
Shreveport, LA 71103

MARYLAND
Blind Industries and Services of Maryland
Baltimore Division
2901 Strickland Street
Baltimore, MD 21223

Blind Industries and Services of Maryland
Western Maryland Division
322 Paca Street
Cumberland, MD 21502

Blind Industries and Services of Maryland
Eastern Shore Division
Northwood Industrial Park
P.O. Box 2133
Salisbury, MD 21801

MASSACHUSETTS
Cambridge Industries
for the Blind
72 Second Street
Cambridge, MA 02141

Fall River Industries for the Blind
1001 County Street
Fall River, MA 02723

Lowell Industries for the Blind
347 Middlesex Street
Lowell, MA 01845

Pittsfield Industries for the Blind
11 Melville Street
Pittsfield, MA 01201

Springfield Industries for the Blind
83 Howard Street
Springfield, MA 01105

Worcester Industries for the Blind
90 Madison Street
Worcester, MA 01608

MINNESOTA
Duluth Lighthouse for the Blind
2701 West Superior Street
Duluth, MN 55806

The Minneapolis Society for the Blind, Inc
1936 Lyndale Avenue South
Minneapolis, MN 55403

St. Paul Society for the Blind
216 South Wabasha Street
St. Paul, MN 55107

MISSISSIPPI
Royal Maid, Inc.
Hansen Road
P.O. Drawer 30
Hazlehurst, MS 39083

Mississippi Industries for the Blind
2501 North West Street
P.O. Drawer 4417
Jackson, MS 39216

MISSOURI
Kansas City Association for the Blind
1844 Broadway
Kansas City, MO 64108

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2315-21 Locust Street
St. Louis, MO 63103

NEW HAMPSHIRE
Workshop for the Blind
130 Silver Street
Manchester, NH 03103

NEW JERSEY
New Jersey Commission for the Blind
and Visually Impaired
232 Frelinghuysen Avenue
Newark, NJ 07114

New Jersey Commission for the Blind
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209 Highland Avenue
Westmont, NJ 08108

NEW MEXICO
New Mexico Industries for the Blind
2200 Yale Boulevard, S.E.
Albuquerque, NM 87106

NEW YORK
Albany Association of the Blind, Inc.
301 Washington Avenue
Albany, NY 12206

Blind Work Association, Inc.
55 Washington Street
Binghamton, NY 13901

IHB Industries/The Industrial Home
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1000 Atlantic Avenue
Brooklyn, NY 11238

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520 Gates Avenue
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Blind Association of Western New York
1170 Main Street
Buffalo, NY 14209

Lighthouse Industries/The New York
Association for the Blind
36-20 Northern Boulevard
Long Island City, NY 11101

The Jewish Guild for the Blind
111 Eighth Avenue
New York, NY 10011

The Jewish Guild for the Blind
15 West 65th Street
New York, NY 10023

The Association for the Blind of
Rochester & Monroe County, Inc.
422 S. Clinton Avenue
Rochester, NY 14620

Central Association for the Blind, Inc.
301 Court Street
Utica, NY 13502

NORTH CAROLINA
Lions Club Industries for the Blind
of Western North Carolina, Inc.
639 Biltmore Avenue
Asheville, NC 28803

Lions Services, Inc.
1702 Brevard Street
Charlotte, NC 28206

Lions Club Industries, Inc.
1810 East Main Street
P.O. Box 11215
Durham, NC 27703

Industries of the Blind, Inc.
920 West Lee Street
P.O. Box 3544
Greensboro, NC 27402

Lions Industries for the Blind, Inc.
500 East Lenoir Avenue
P.O. Box 454
Kinston, NC 28501

Raleigh Lions Clinic for the Blind, Inc.
315 Hubert Street
Raleigh, NC 27603

Industries for the Blind
701 North Main Street
Winston-Salem, NC 27101

OHIO
Cincinnati Association for the Blind
2045 Gilbert Avenue
Cincinnati, OH 45202

Clovernook Home and School for the Blind
7000 Hamilton Avenue
Cincinnati, OH 45231

The Cleveland Society for the Blind
2275 East 55th Street
Cleveland, OH 44103

The Vision Center of Central Ohio
Industrial Division
2470 Cleveland Avenue
Columbus, OH 43211

Youngstown Society for the Blind
and Disabled
2246 Glenwood Avenue
Youngstown, OH 44511

OKLAHOMA
Oklahoma League for the Blind
501 North Douglas Avenue
Oklahoma City, OK 73106

OREGON
Oregon Industries for the Blind
535 S.E. Twelfth Avenue
Portland, OR 97214

PENNSYLVANIA
Lehigh County Branch
Pennsylvania Association for the Blind
614 North Thirteenth Street
Allentown, PA 18102

Delaware County Branch
Pennsylvania Association for the Blind
100-106 West 15th Street
Chester, PA 19013

Chester County Association for the Blind
71 South First Avenue
Coatesville, PA 19320

Westmoreland County Branch
Pennsylvania Association for the Blind
306 S. Pennsylvania Avenue
P.O. Box 1048
Greensburg, PA 15601

Center for the Blind
36th Street and Lancaster Avenue
Philadelphia, PA 19104

Pittsburgh Blind Association
300 South Craig Street
Pittsburgh, PA 15213

Washington-Greene County Branch
Pennsylvania Association for the Blind
234 North Main Street
Washington, PA 15301

PUERTO RICO
Puerto Rico Industries for the Blind Corp.
Box 13382
Santurce, PR 00908

TENNESSEE
A.P. Mills Industries for the Blind
346 St. Paul Street
P.O. Box 2175
Memphis, TN 38101

Volunteer Blind Industries, Inc.
758 West First South Street
Morristown, TN 37814

Mason Brandon Industries for the Blind
4110 Charlotte Avenue
P.O. Box 90227
Nashville, TN 37209

TEXAS
*Southwest Lighthouse for the Blind
409 South Cleveland
P.O. Box 31000
Amarillo, TX 79120

Travis Association for the Blind
2831 Manchaca Road
P.O. Box 3297
Austin, TX 78764

South Texas Lighthouse for the Blind
1907 Leopard Street
P.O. Box 9697
Corpus Christi, TX 78408

Dallas County Association for the Blind
3940 Capitol Avenue
P.O. Box 64420
Dallas, TX 75206

El Paso County Association for the Blind
100 Dunne Avenue
El Paso, TX 79905

Tarrant County Association for the Blind
912 West Broadway
Fort Worth, TX 76104

Lighthouse for the Blind of Houston
3530 West Dallas
P.O. Box 13435
Houston, TX 77019

Southwest Lighthouse for the Blind
607 Main Street
P.O. Box 10102
Lubbock, TX 79408

West Texas Lighthouse for the Blind, Inc.
2001 Austin Street
San Angelo, TX 76903

San Antonio Association for the Blind
2305 Roosevelt Avenue
P.O. Box 10230
San Antonio, TX 78210

East Texas Lighthouse for the Blind
Route 14, Box 67
Tyler, TX 75707

Lighthouse for the Blind
700 South 15th Street
Waco, TX 76706

Beacon Lighthouse for the Blind
300 Seventh Street
Wichita Falls, TX 76301

UTAH
Utah Industries for the Blind
1595 West Fifth South
Salt Lake City, UT 84104

VERMONT
Vermont Workshop for the Blind
c/o Vermont Allied Services
103 Main Street
Waterbury, VT 05676

VIRGINIA
Virginia Industries for the Blind
1102 Monticello Road
P.O. Box 259
Charlottesville, VA 22902

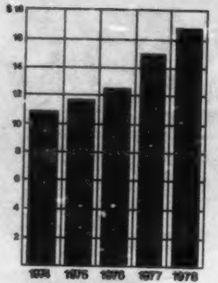
Virginia Industries for the Blind
1535 High Street
P.O. Box 27563
Richmond, VA 23261

WASHINGTON
The Lighthouse for the Blind, Inc.
2501 South Plum Street
P.O. Box C-14119
Seattle, WA 98114

WISCONSIN
Industries for the Blind
3220 West Vliet Street
Milwaukee, WI 53208

Wisconsin Workshop for the Blind
5316 West State Street
Milwaukee, WI 53208

Government Contracts Provide Major Source of Jobs for Blind Workers



Annual Wages Paid to Blind Workers (in millions)
Fringe benefits amounted to $3,923,424

Legislation enacted for the specific benefit of blind people provides a major source of jobs.

Javits-Wagner-O'Day Act

The most beneficial legislation ever passed in terms of industrial employment for the blind was the Wagner-O'Day Act, amended in 1971 to its present form. This law has created thousands of jobs and man hours in NIB associated workshops.

This past year, in cooperation with the Government Marketing Division of NIB, the Committee for Purchase from the Blind and Other Severely Handicapped added 23 blind-made products to the United States Government Procurement List.

These new products will create jobs for 86 additional blind workers in NIB workshops. During 1978 NIB's allocated sales to the United States Government increased more than $8,000,000.

Service Improved on Government Contracts

This fiscal year, the NIB Government Marketing Division strengthened its contract administration service to assist the workshops in the pursuit of excellence as government suppliers.

In 1978, NIB also enhanced its product development capabilities through the expansion of staff at the NIB St. Louis Technical Center.

Military Resale

The sale of blind-made consumer products through commissaries and post exchanges of the military services is also under the authority of the Javits-Wagner-O'Day Act.

These products are universally stocked in military stores. Mandatory stockage was measurably increased in 1978 as a result of cooperative efforts by the Committee for Purchase from the Blind and Other Severely Handicapped, NIB and top military staff. Simultaneously, NIB greatly expanded sales service to military stores by employing more military brokers and sales representatives.

Military resale sales reached a record high in 1978 providing jobs for more blind workers than ever before.

Employees at IHB, left, Brooklyn, New York working on government contracts secured under terms of the Javits-Wagner-O'Day Act.

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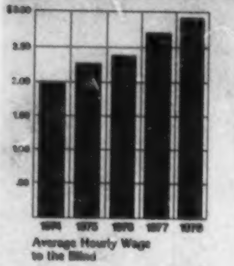
Industry Essential to Diversified Job Opportunities



Average Hourly Wage to the Blind

Roger Danielson, a blind worker, at the Minneapolis Society for the Blind, does subcontracting operation for Honeywell, Inc.

NIB Locates Additional Job Opportunities in Commerce and Industry

To meet the demand for more employment of blind people, NIB works closely with private industry. This has led to the enclave program and the placement of blind people in industrial jobs.

ITT was the first company to work with NIB in establishing an industrial placement project. A similar program was begun this year with Texas Instruments in cooperation with Southwest Lighthouse for the Blind, Lubbock, Texas.

Enclave programs have been planned or initiated by NIB between several associated workshops and cooperating industry.

Subcontracting

Many national corporations provide a variety of subcontracting jobs for the employment of blind people in the associated workshops.

Among these nationally recognized companies are Procter and Gamble, Colgate Palmolive, Allis Chalmers, General Electric, Du Pont, Rockwell International, Westinghouse, ITT, Western Electric, AMF-Head Division, Avon, Boeing, Coors Porcelain, Freightliner, Hilrich and Bradsby, IBM, Texas Instruments and others.

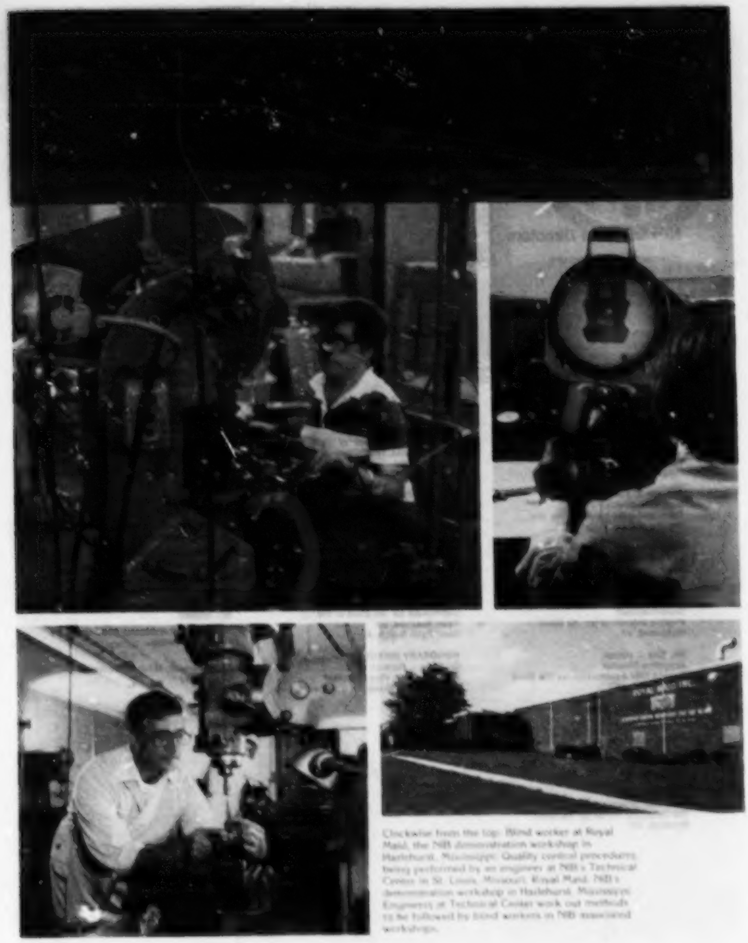
Industrial Sales

To obtain contracts for many of the industrial products produced by blind workers, a test program was begun last year. Du Pont and Rockwell have encouraged buyers in their 300 facilities to purchase the NIB line of cleaning products. Plans are underway to expand this program to other industries with a broad product line.

Writing instruments continue to be important with several shops selling these products in their own locales and to their respective states.

These special sales programs of writing instruments have provided full-time employment for 84 blind workers in excess of those involved in production for the United States Government.

SKILCRAFT
Quality Blind Made Products
Registered Trademark



Clockwise from the top: Blind worker at Royal Maid, the NIB demonstration workshop in Hazlehurst, Mississippi; Quality control procedures being performed by an engineer at NIB's Technical Center in St. Louis, Missouri; Royal Maid, NIB's demonstration workshop in Hazlehurst, Mississippi; Engineers at Technical Center work out methods to be followed by blind workers in NIB associated workshops.

NIB Board and Staff Strengthen Workshop Effectiveness

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William S. Thompson
Executive Director
Lighthouse for the Blind of the
Palm Beaches, Inc.
West Palm Beach, FL

HONORARY DIRECTOR
Dr. Peter J. Salmon
Administrative Vice President
The Industrial Home for the Blind
Brooklyn, NY

Offices

Principal Office
1455 Broad Street
Bloomfield, NJ 07003

Government Marketing Division Office
1511 K Street, N.W.
Washington, DC 20005

Legislative Affairs Office
1511 K Street, N.W.—Room 327
Washington, DC 20005

Technical Center
10679 Midwest Industrial Boulevard
St. Louis, MO 63132

Rehabilitation Services Division Office
2020 Jericho Turnpike
New Hyde Park, NY 11040

NIB ADMINISTRATIVE ORGANIZATION

Executive Vice President
Noel B. Price

Vice President—Legislative Affairs
John W. Hanger

Vice President—Government Marketing
James C. MacFarland

Vice President—Controller
George J. Mertz

Vice President-Product and Sales Services
Daniel J. Boucher

Director— Public Relations
R.T. Millard

Director—Rehabilitation Services
Harold Richterman

Auditors
Peat, Marwick, Mitchell & Company
Newark, NJ

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National Industries for the Blind

Annual Report 1979

NIB
NATIONAL INDUSTRIES FOR THE BLIND

This is NIB

The Wagner-O'Day Act, enacted by Congress in 1938 and amended in 1971 as the Javits-Wagner-O'Day Act, directs agencies of the United States Government to purchase, under certain conditions, products and services from workshops for the blind. The Presidentially appointed Committee for Purchase from the Blind and Other Severely Handicapped was established to implement the provisions of the Act.

National Industries for the Blind, a nonprofit corporation, was designated by the Committee to allocate among qualified workshops for the blind, purchase orders of the government for specified products and services.

NIB was also charged with monitoring the associated workshops for the blind to assure compliance with the Javits-Wagner-O'Day Act and contract specifications. In the years since its inception NIB has fulfilled its basic responsibility but has also widely broadened the service it provides to the associated workshops and the blind workers in them.

A review of activities in NIB and the associated workshops for the blind during the fiscal year ending September 30, 1979 are included in the pages of this report.

Cover photos: A blind worker at Industries for the Blind, Milwaukee, WI operates a flagging machine used in the manufacture of brushes.

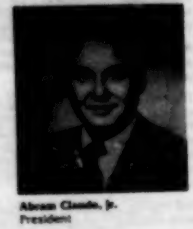
The National Industries for the Blind Technical Center, St. Louis, MO assists workshops in product development and quality control.

SKILCRAFT.
Quality Blind Made Products

Registered Trademark
of National Industries
for the Blind

Message from the Chairman and the President

Thor W. Kolle, Jr.
Chairman



Abram Claude, Jr.
President

Last year, in commemorating the 40th year of operation of National Industries for the Blind, we paused to look at the achievements of the workshops and NIB. The record showed beyond any question that NIB and the shops had not only fulfilled their obligation by accomplishing the purposes for which the association was formed but they had gone much further. By utilizing technological advances and innovative manufacturing techniques, the workshops are now providing employment to thousands of blind persons who also suffer from other serious handicaps in addition to blindness. Furthermore, the capabilities of blind workers have been extended far beyond the dreams of the founders of the NIB association.

In 1979, NIB, the workshops and workshop management have been the object of unprecedented publicity initiated by persons seeking to discredit our approach to aiding the blind in the hope we would forego the principals upon which we were founded and abandon the objectives we have been working toward over the years.

Ironically, in the midst of all the confusion caused by such publicity and at a time when the worth of the workshop concept was being questioned, the NIB associated shops continued their pattern of growth and set new records of achievement in every field of endeavor.

Sales to the United States Government by the workshops this year reached an unequalled $63,607,000 including $7.8 million in sales to military stores, a new record.

An estimated 100 new jobs for blind persons were created by the addition of 19 new items to the procurement list of government use items and another 85 jobs were created by the increase in sales to military stores.

More wages, $18,931,000 were paid than ever before to workers who were blind or blind with additional handicaps.

Over a broader period, 1969 to 1979, the NIB associated workshops have increased the average hourly wage to blind workers by 96.25%, while the national statutory minimum wage increased only 81.25%. This is especially significant when considered with the fact that during those same years the number of multihandicapped blind workers in the workshops has climbed to approximately 54.5% of the total work force in the workshops.

These statistics, and many similar ones, indicate that without question the sheltered workshop program as it is practiced by the NIB workshops for the blind was soundly conceived by its founders and continues to perform a worthwhile function for the blind community.

The attempt to destroy the workshop program by repeated attack in whatever form cannot be tolerated. It shall not succeed if we continue to provide the excellent service to the blind community for which we have been known for over 40 years. The shop managers, boards of directors and the NIB management have much of which to be proud while, at the same time, realizing that our program has grown strong because of a healthy, continuous self-appraisal which leaves no room for smug self-satisfaction.

Accordingly, we do not intend to let detractors of the program tear down what we have tried so hard to build nor interfere with our plans for the future. If anything, our resolve has been strengthened.

We are aware the needs of the future are not the same ones NIB faced when it was founded nor are they like those of even ten short years ago. But it is clear that the blind community needs employment opportunities and, it is equally clear, that NIB and the shops can continue to provide such opportunities if we work together in a well-coordinated program and if we maintain the high standards that have characterized our efforts in the past.

Appropriately, 1979 has been not only a year of accomplishment but also a year of preparation.

The NIB Government Marketing Division has enlarged and strengthened its Technical Center at St. Louis to help the workshops implement new production techniques and to assist them in maintaining improved quality control procedures.

NIB training courses in numerous subjects including management, product development, quality control and accounting have been intensified.

The search continues by NIB staff for new products to be manufactured for the United States Government and new contracts to be entered into with industrial manufacturers.

Procedures have been formulated for assisting newly established workshops, as well as existing ones, to broaden programs and provide services to more blind people in their communities.

Our heartfelt thanks and best wishes go to Noel Price who retired at the end of the year after 14 years of devoted and exemplary service to NIB. A man of extraordinary competence, he will, nevertheless, be remembered primarily as a friend and an example of a man who made his life have meaning.

We enthusiastically welcome George Mertz who assumes Noel Price's responsibilities. We are confident his leadership and knowledge of our program will guide us through these difficult times. We pledge to him our complete support.

We express our appreciation to the Committee for Purchase from the Blind and Other Severely Handicapped for its steadfast support during the year. We thank the NIB employees and the workshops for their continued cooperation and understanding. We will all strive to merit the goodwill of the blind community we are pledged to serve.

Thor W. Kolle, Jr.
Chairman

Abram Claude, Jr.
President

George J. Mertz named NIB Executive Vice President

George J. Mertz
Executive Vice President

George J. Mertz became executive vice president of National Industries for the Blind, July 1, 1979. He replaced Noel B. Price who retired after fourteen years with NIB. The appointment was announced on behalf of the Board of Directors by Thor W. Kolle, chairman.

Mr. Mertz has been with NIB since 1969 as vice president of finance. In that position he also served as treasurer of Royal Maid, Inc., NIB's demonstration workshop in Hazlehurst, MS. He has participated in workshop management training and board orientation programs sponsored by NIB and has assisted numerous NIB associated workshops in formulating and administering their varied programs.

A native of California, Mr. Mertz graduated from Woodbury University with a bachelor's degree in business administration.

Message from Mr. Mertz

The year just passed has probably been one of the most interesting and challenging ever faced by National Industries for the Blind and its associated workshops since the passage of the Wagner-O'Day Act in 1938. Our objective of providing job opportunities for all blind people who wish to work in an industrial setting was seriously questioned. Yet, through the cooperation of NIB, the associated workshops, the President's Committee for Purchase from the Blind and Other Severely Handicapped, industry and the many government agencies which recognize the importance of our programs, our year ended with record achievements. Everyone involved in creating and providing job opportunities for the blind can be immensely proud of these accomplishments. Our annual report addresses itself to this.

Since becoming the executive vice president of NIB on July 1, it has been most noticeable to me when discussing our programs with agency directors, their board members and other business leaders, the attitude they display reflects confidence in facing the challenges of the future. The comment, "let the 41-year record of the program speak for itself" seems to prevail.

By having strong confidence in ourselves and with continued communication and cooperation between NIB and our associated workshops, the next decade will surely be one of continued growth and much success in developing employment opportunities for the blind.

George J. Mertz

George J. Mertz
Executive Vice President

Merit Awards

Crest Chemical Company

Lillian Meske

David Miller

Ed I. Mills

Because it was the first in the nation to establish an enclave program for the blind, Crest Chemical Company was awarded the 1979 Industrial Award by National Industries for the Blind.

In the picture above, William Parker, president, second from right, and Gerald Tinney, secretary-treasurer, right, Crest Chemical Company accept the 1979 Industrial Award from Daniel J. Boucher, vice president, product and sales services, National Industries for the Blind. William H. Betts, workshop director, Tampa Lighthouse for the Blind is pictured, left. The presentation was made during the spring convention of NIB associated workshops in Sarasota, FL.

Lillian Meske who is employed by the Lighthouse for the Blind in Seattle, WA, has been named Blind Worker of the Year. She received the Peter J. Salmon Award at the spring meeting of National Industries for the Blind in Sarasota, FL.

Miss Meske was born deaf and, due to retinitis pigmentosa, began to lose her eyesight at an early age. She communicates fluently in sign language and is an excellent worker. Miss Meske is currently employed in the prefab department at the Lighthouse. Previously she held jobs in the sewing and housewares department and in the machine shop.

David Miller, a member of the Board of Trustees of Columbia Lighthouse for the Blind has been named Board Member of the Year by National Industries for the Blind.

Mr. Miller has served the agency since 1963. During that time, he has been involved in every facet of Lighthouse activities and has contributed significantly to the employment of blind people.

In recognition of his more than 25 years of service to blind people both as a professional and volunteer, Ed I. Mills has received the R.B. Irwin Award. It was presented to him by National Industries for the Blind.

He retired in 1979 as executive director of the San Antonio Association for the Blind. Mr. Mills also served on the Board of Directors of NIB, was a leader in the Association of Texas Lighthouses for the Blind and filled many responsible positions in the General Council of Workshops for the Blind.

NIB and the Javits-Wagner-O'Day Act

Fulfilling the common purpose for which they were both founded, NIB and the Committee for Purchase from the Blind and Other Severely Handicapped cooperate in administering the Javits-Wagner-O'Day Act.

19 new government use products created jobs for 100 blind people.

This year that joint effort has been successful in creating 100 additional jobs for the blind through the development of 19 new blind-made products. These were added to the Committee's list of items to be purchased by the United States Government. The products, which now total 826, yield more than $83 million in annual sales.

The official acceptance of new products by the Committee is no "rubber stamp" procedure. Each new item proposed involves countless hours, days and months of careful analysis to assure that not only does the government get a quality product at competitive prices, but that industry is not treated inequitably.

In addition, the Committee makes certain that the production complies with the terms of the Javits-Wagner-O'Day Act.

To assure compliance the NIB government marketing staff made 140 visits to 38 associated workshops this year on matters pertaining to government products. NIB also maintains contacts with government procurement activities to monitor deliveries and quality of NIB contracts for the products being made for government use.

Through intensified attention by NIB staff to government contracts, late deliveries and product exceptions were kept to a minimum this year.

The sale of blind-made products by NIB for resale by commissaries and exchanges of the military service branches operates under the authority of the Javits-Wagner-O'Day Act.

Military store sales by NIB during the year reached an all time high of $7,780,310. The increase over last year provided 85 new jobs for blind workers in addition to those created by new government use items.

33 associated workshops now produce goods for military stores.

Three associated workshops were added to those producing military resale products bringing the total number of workshops in the program to 33.

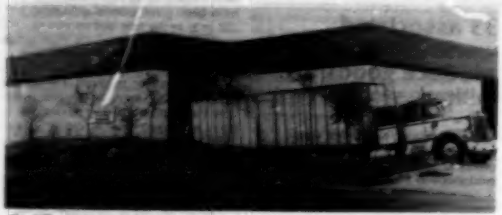
Charles W. Fletcher, left, executive director and E. Richard Alley, deputy executive director, Committee for Purchase from the Blind and Other Severely Handicapped.

To promote further growth the number of NIB military sales representatives was increased from 30 to 50.

NIB opened military resale warehouses in Hawaii and Puerto Rico and moved its West Coast distribution point to a 12,000 square foot warehouse in Buena Park, CA. All of these developments are expected to increase NIB's ability to service its military customers effectively.

New military sales representatives have been given extensive training this year in the sale and service of SKILCRAFT products — the trade name of NIB blind-made items. Officials of the military branches also attended NIB sales training sessions. During these meetings they told the NIB team how they thought military customers could be served more efficiently.

Blind workers at Industries for the Blind, Milwaukee, WI assemble ball point pens as part of a contract under the Javits-Wagner O'Day Act.



The NIB warehouse in Buena Park, CA was recently completed for use as one of nine distribution centers for military resale products manufactured by workshops for the blind throughout the country.

Shipments by NIB military warehouses this year were not only more complete but 99% on time compared to an industry average of 89%.

Writing pens are also sold to the government under the Javits-Wagner-O'Day Act. Their sales are administered separately by NIB due to their large volume and the unique characteristics of pen manufacture and distribution.

Javits-Wagner-O'Day Act is biggest provider of jobs for blind workers.

Following the trend of other government items a new record was set this year in the sale of ball point pens. NIB's pen department specialists work diligently to keep the government aware of new product development.

Sales of products to the United States Government under the Javits-Wagner-O'Day Act continue to provide the largest number of jobs for blind workers in the NIB associated workshops.

NIB Serves Workshops

Although the administration of contracts is the prime purpose of National Industries for the Blind, it has also expanded other services to the workshops. For example, all possible sources of new job contracts were explored this past year. And the feasibility of blind people producing the items required by these contracts was thoroughly researched. NIB support services, including engineering and product development were expanded. In addition, the NIB Rehabilitation Division increased its assistance to associated agencies serving the blind.

NIB services to workshops greatly expanded.

As a result, workshops throughout the country could provide better jobs to more blind men and women and place blind people with other handicaps in more jobs than ever before.

NIB workshop management training session taking place at Royal Maid, NIB's demonstration workshop, Hazlehurst, MS.

Royal Maid, NIB's demonstration facility in Hazlehurst, MS, hosted 30 representatives of associated workshops who participated in its management training courses this year. It was also the scene of a training seminar in personnel/public relations offered to workshop management by the NIB Public Affairs Division.

During this year more than 500 visitors toured Royal Maid to view its programs and methods of operation.

Twenty associated workshops now own the electro-mechanical equipment designed at Royal Maid with NIB staff assistance. This equipment is used to evaluate the skills and abilities of blind people.

The NIB Subcontracting Department assisted 35 associated workshops this year in the development of local subcontracting programs with industry. It obtained ten corporate agreements with major national companies which permit subcontracts between the workshops and local plants of the parent companies.

Subcontracting with industry opens many job opportunities.

The Subcontracting Department has initiated a joint effort with the American Foundation for the Blind to place blind people in professional positions with industry.

The first industrial enclave is a successful endeavor between Computer Peripherals, Inc., Norristown, PA and Delaware County Branch, Pennsylvania Association for the Blind. This placement of blind workers in industry has set an example for other companies. NIB has similar projects in the planning stages.

A young blind man does terminal crimping on braided wire as part of an enclave program at Computer Peripherals, Norristown, PA. The program is operated by Delaware County Branch, Pennsylvania Association for the Blind, Chester, PA.

Twelve workshops became associated with NIB this past year. Staff members in the NIB Rehabilitation Division provided the required assistance. This is a continuing service. In addition, the Rehabilitation Division assists agencies in setting up evaluation and training programs.

A rehabilitation specialist hired by NIB has been placed at Royal Maid, to be responsible not only for NIB rehabilitation activities there, but to work with Royal Maid staff on cooperative programs of Royal Maid and NIB.

The orientation of agency board members to their responsibilities and the services offered the workshops by NIB are continuing responsibilities of the Rehabilitation Department. Special training sessions are conducted at the NIB annual meetings. And to further assist board members in their duties, NIB staff members regularly visit agencies to work with these volunteers collectively and individually.

Rehabilitation is a major emphasis with workshops.

The NIB Technical Center at St. Louis, MO is a vital segment of the Government Marketing Division program of service to the United States Government on Javits-Wagner-O'Day contracts.

Activities of the Center are directed toward helping the workshops implement technological developments in their manufacturing, assisting the shops in maintaining their own quality control procedures and working with both workshop management and government procurement personnel in identifying and developing new products for sale to the government.

This year the staff of the Center was expanded so that each proposed new product can be the assigned responsibility of a designated staff member. The expansion has also provided personnel for improved and more elaborate quality control procedures for the workshops.

The program of the Center is designed to "help the workshops help themselves." Pursuant to that purpose the St. Louis staff this year conducted two schools on quality control procedures and two on government product development. Approximately 70 management people from the workshops attended these schools. Government procurement officials assisted in the instruction by providing guest speakers.

Staff members of the Center meet regularly and often with officials of the government procurement offices to keep them advised of the capabilities and activities of the workshops.

Training courses for management personnel of the agencies are conducted regularly on a variety of subjects by NIB staff members. Subjects covered this year concerned government product development, quality control and public and personnel relations.

Others covering accounting, costing and pricing are being planned for early next year.

NIB works with full support and cooperation of the General Council of Workshops for the Blind. This is the organization of all workshops associated with NIB. The Council has evolved from the small group of agencies that helped organize NIB in 1938.

NIB works with full support of General Council.

The Council and NIB convene jointly twice each year. In November 1978 the meeting was held in Houston, TX. Another took place in Sarasota, FL in May 1979. In addition, NIB cooperated in the first regional conference of the Council for workshop personnel from the eastern section of the United States. It was held in Newark, NJ in September 1979.

Workshop Activities

All of the efforts of the Committee for Purchase from the Blind and Other Severely Handicapped in implementing the Javits-Wagner-O'Day Act, the many assistance programs of NIB, the planning and goals of workshop management come to final fruition in 100 associated workshops for the blind in 35 states, Puerto Rico and the District of Columbia. In these shops this year, 5350 blind people, including 2918 with handicaps in addition to blindness, were provided employment opportunities.

Total sales of $127,267,418 for the combined workshops, including nearly $84,000,000 through Javits-Wagner-O'Day contracts, the highest ever attained in either category by the associated workshops, were translated into more wages than ever before for blind workers.

More wages than ever paid to blind workers

Heightened activity, expanded programs, and improved services to employees are evident. For example, records show that in the past decade the average hourly wage in the combined workshops increased more than 96%. During that time the workshops made job opportunities available to many more blind persons with other handicaps in addition to limited vision. Today, as shown by reported employment statistics, 54.5% of all workers in the workshops have multiple handicaps. Indications are that the trend will continue upward.

Another sign of significant progress is the amount of fringe benefits paid this year to blind workers over and above hourly wage payments. In this fiscal year $5,212,756 was paid by the workshops for benefits including sick pay, vacations, insurance and more. In the last five years fringe benefits to blind workers have increased 249%.

Mastering use of the Optacon at Houston Lighthouse for the Blind. This is one of the newest aids to assist blind people in reading printed copy.

The associated industries have changed considerably from the workshops that had their beginnings four decades ago. The simple craft jobs of that earlier time have been replaced with metal work, complicated sewing operations and other equally sophisticated procedures using the most up-to-date equipment available.

Average hourly wage increased 96% in 10 years

Employment for blind people is the ultimate and prime objective of all NIB associated industries. But agency activities of which those workshops are a part are not in the least restricted to jobs and production. In their attempt to help people find their most comfortable and productive places in society and industry, these agencies are concerned with many facets in the lives of their blind workers and they also provide innumerable services to other blind people who are not employed in their in-

A multihandicapped blind worker in the special workshop at the Lighthouse for the Blind, Houston, TX.

Fringe benefits increased 249% in five years

dustrial divisions. These include evaluation of their capabilities, specialized professional training and job placement, rehabilitation services, training in mobility, communication and daily living skills. Here, too, modern techniques are utilized. For example, braille is in many instances being replaced by electronic devices that enable blind individuals to understand printed information.

Other such devices enable them to better utilize limited vision. Improved lighting and work environment now enable workers and clients to become involved in an increasing variety of occupational and recreational activities.

Packaging ribbon bows is done by a blind man as part of a subcontract at Pittsburgh Blind Association, Pittsburgh, PA.

Programs of athletics, physical fitness, dancing and social functions are becoming integral and important parts of the total services of agencies for the blind.

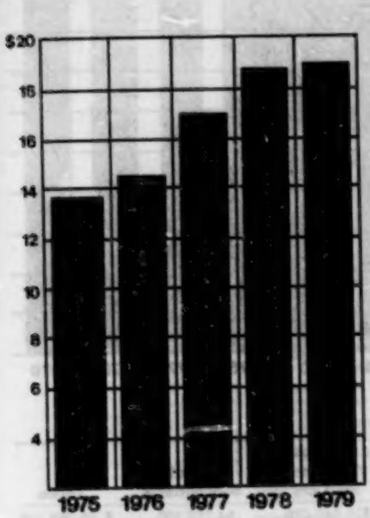
Cooperation of industry is a major source of jobs

To provide employment opportunities to blind people, regardless of the degree or multiplicity of their handicaps, the workshops have expanded work activities centers and special workshops. In these there is closer and more constant supervision. Intensified rehabilitation services lead the worker upward toward greater productivity and financially rewarding employment. Cooperation of local industry outside the workshops is a major help in making more jobs available for the workers in activities employing the more severely handicapped.

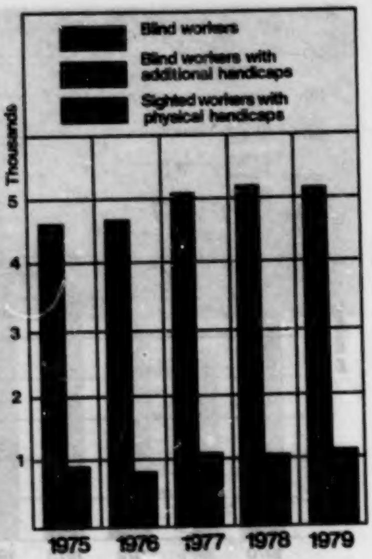
A blind worker feeds blocks for making wire scratch brushes on a high speed, continuous production brush machine at Industries for the Blind, Milwaukee, WI.

A nonretractable pen being assembled at Kansas City Association for the Blind under terms of the Javits-Wagner O'Day Act.

Year end Summary

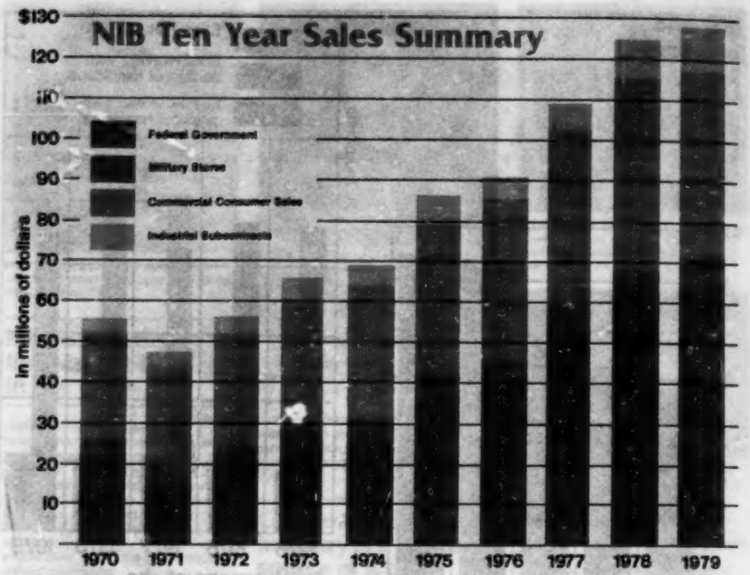


Annual Wages Paid to Blind Workers (in millions)



Employment of the Blind and Handicapped

Fringe benefits
amounted to $5,212,758



Annual Sales

Year	Federal Government	Military Stores	Commercial Consumer Products	Industrial Subcontracts	Totals
1970	$23,006,781	$3,142,546	$25,546,770	$4,272,109	$ 55,968,206
1971	14,788,361	3,561,127	25,737,511	3,765,230	47,852,229
1972	20,687,430	3,845,658	27,030,718	4,961,086	56,524,892
1973	25,916,297	3,949,638	29,882,693	5,526,909	65,275,537
1974	26,138,786	4,390,882	32,915,259	6,480,057	69,924,984
1975	37,139,818	5,505,701	37,288,527	5,868,406	85,802,452
1976	39,541,136	6,062,532	39,584,206	5,160,057	90,347,931
1977	52,717,058	5,993,963	43,478,861	7,312,828	109,502,730
1978	61,348,061	6,736,043	45,829,636	9,814,304	123,728,044
1979	$63,606,925	$7,799,310	$46,237,928	$9,623,253	$127,267,416

B
ssociated
dustries

ALABAMA
Industries for the Blind
P.O. Drawer 17
Talladega, AL 35160

ARIZONA
• Arizona Industries for the Blind
3013 West Lincoln Street
Phoenix, AZ 85009

ARKANSAS
Arkansas Lighthouse for the Blind
69th and Murray Streets
Little Rock, AR 72209

CALIFORNIA
San Francisco Lighthouse for
the Blind, Inc.
BLINDCRAFT
1097 Howard Street
San Francisco, CA 94103

COLORADO
Rehabilitation Center for the
Visually Impaired
100 West Seventh Avenue
Denver, CO 80204

CONNECTICUT
Board of Education and Services for
the Blind Products
Russell Road
Newington, CT 06111

DELAWARE
Delaware Division for the Visually Impaired
1901 DuPont Highway
New Castle, DE 19720

DISTRICT OF COLUMBIA
• Columbia Lighthouse for the Blind
1421 P Street, N.W.
Washington, DC 20005

FLORIDA
• Tampa Lighthouse for the Blind
1106 West Platt Street
Tampa, FL 33606

Lighthouse for the Blind of the
Palm Beaches, Inc.
7810 South Dixie Highway
West Palm Beach, FL 33405

GEORGIA
• Georgia Factory for the Blind
59 Ormond Street, S.E.
Atlanta, GA 30315

• Georgia Factory for the Blind
Faceville Highway
P.O. Box 218
Bainbridge, GA 31717

• Georgia Factory for the Blind
Emlet Drive
P.O. Box 96
Griffin, GA 30224

HAWAII
• Ho'opono Center for the Blind
1901 Bachelot Street
Honolulu, HI 96817

ILLINOIS
• The Chicago Lighthouse for the Blind
1850 West Roosevelt Road
Chicago, IL 60608

KANSAS

Kansas Industries for the Blind
925 Sunshine Road
Kansas City, KS 66115

• Kansas Industries for the Blind
425 MacVicar Street
Topeka, KS 66606

Kansas Foundation for the Blind, Inc.
801 East Lincoln Street
P.O. Box 2355
Wichita, KS 67201

KENTUCKY

Kentucky Industries for the Blind
1900 Brownsboro Road
Louisville, KY 40206

LOUISIANA

The Lighthouse for the Blind
123 State Street
New Orleans, LA 70118

• Shreveport Association for the Blind
1750 Claiborne Avenue
P.O. Box 3621
Shreveport, LA 71103

MARYLAND

Blind Industries and Services of Maryland
Baltimore Division
2901 Strickland Street
Baltimore, MD 21223

Blind Industries and Services of Maryland
Western Maryland Division
322 Paca Street
Cumberland, MD 21502

Blind Industries and Services of Maryland
Eastern Shore Division
Northwood Industrial Park
P.O. Box 2133
Salisbury, MD 21801

MASSACHUSETTS

Cambridge Industries
for the Blind
72 Second Street
Cambridge, MA 02141

Fall River Industries for the Blind
85 North Main Street
Fall River, MA 02723

Lowell Industries for the Blind
347 Middlesex Street
Lowell, MA 01845

Pittsfield Industries for the Blind
11 Melville Street
Pittsfield, MA 01201

Springfield Industries for the Blind
63 Howard Street
Springfield, MA 01105

Worcester Industries for the Blind
90 Madison Street
Worcester, MA 01608

MINNESOTA

Duluth Lighthouse for the Blind
2701 West Superior Street
Duluth, MN 55806

• The Minneapolis Society for the Blind, Inc.
1936 Lyndale Avenue South
Minneapolis, MN 55403

MISSISSIPPI

Mississippi Industries for the Blind
201 Main Street
P.O. Box 1585
Greenville, MS 38701

Mississippi Industries for the Blind
2501 North West Street
P.O. Drawer 4417
Jackson, MS 39216

Mississippi Industries for the Blind
232 Bonita Road
P.O. Box 885
Meridian, MS 39301

Royal Maid, Inc./Opportunities Unlimited
Ellisville, MS 39437

• Royal Maid, Inc.
Hansen Road
P.O. Drawer 30
Hazlehurst, MS 39083

MISSOURI

• Kansas City Association for the Blind
1844 Broadway
Kansas City, MO 64108

The Lighthouse for the Blind
2315-21 Locust Street
St. Louis, MO 63103

NEW HAMPSHIRE

Workshop for the Blind
130 Silver Street
Manchester, NH 03103

NEW JERSEY

New Jersey Commission for the Blind
and Visually Impaired
232 Frelinghuysen Avenue
Newark, NJ 07114

New Jersey Commission for the Blind
and Visually Impaired
209 Highland Avenue
Westmont, NJ 08108

NEW MEXICO

New Mexico Industries for the Blind
2200 Yale Boulevard, S.E.
Albuquerque, NM 87106

NEW YORK

• Northeastern Association of the Blind
at Albany, Inc.
301 Washington Avenue
Albany, NY 12206

Blind Work Association, Inc.
55 Washington Street
Binghamton, NY 13901

• Blind Work Association, Inc.
55 Washington Street
Binghamton NY 13901

• IHB Industries/The Industrial Home
for the Blind
1000 Atlantic Avenue
Brooklyn, NY 11238

• IHB Industries/The Industrial Home
for the Blind
520 Gates Avenue
Brooklyn, NY 11216

• IHB Industries/The Industrial Home
for the Blind
Building 40
Suffolk Developmental Center
South Road
P.O. Box 1003
Melville, NY 11746

• Blind Association of Western New York
1170 Main Street
Buffalo, NY 14209

Southern Tier Association for the Blind
719 Lake Street
Elmira, NY 14901

• Lighthouse Industries/The New York
Association for the Blind
36-20 Northern Boulevard
Long Island City, NY 11101

• The Jewish Guild for the Blind
111 Eighth Avenue
New York, NY 10011

• The Jewish Guild for the Blind
15 West 65th Street
New York, NY 10023

• The Association for the Blind of
Rochester & Monroe County, Inc.
422 S. Clinton Avenue
Rochester, NY 14620

• Central Association for the Blind, Inc.
301 Court Street
Utica, NY 13502

NORTH CAROLINA

Lions Club Industries for the Blind
of Western North Carolina, Inc.
45 South French Broad Avenue
Asheville, NC 28801

Lions Services, Inc.
1702 Brevard Street
Charlotte, NC 28203

Lions Club Industries, Inc.
1810 East Main Street
P.O. Box 11215
Durham, NC 27703

Industries of the Blind, Inc.
920 West Lee Street
P.O. Box 3544
Greensboro, NC 27402

Lions Industries for the Blind, Inc.
500 East Lenoir Avenue
P.O. Box 454
Kinston, NC 28501

Raleigh Lions Clinic for the Blind, Inc.
315 Hubert Street
Raleigh, NC 27603

Industries for the Blind
701 North Main Street
Winston-Salem, NC 27101

OHIO

Cincinnati Association for the Blind
2045 Gilbert Avenue
Cincinnati, OH 45202

Clovernook Home and School for the Blind
7000 Hamilton Avenue
Cincinnati, OH 45231

The Cleveland Society for the Blind
2275 East 55th Street
Cleveland, OH 44103

The Vision Center of Central Ohio
Industrial Division
3470 Cleveland Avenue
Columbus, OH 43211

Youngstown Society for the Blind
and Disabled
2246 Glenwood Avenue
Youngstown, OH 44511

OKLAHOMA

Oklahoma League for the Blind
501 North Douglas Avenue
Oklahoma City, OK 73106

OREGON

Oregon Industries for the Blind
535 S.E. Twelfth Avenue
Portland, OR 97214

PENNSYLVANIA

Lehigh Valley Lighthouse
Industries for the Blind
610 Union Boulevard
Allentown, PA 18103

Delaware County Branch
Pennsylvania Association for the Blind
100-106 West 15th Street
Chester, PA 19013

Chester County Association for the Blind
71 South First Avenue
Coatesville, PA 19320

Westmoreland County Branch
Pennsylvania Association for the Blind
306 S. Pennsylvania Avenue
P.O. Box 1046
Greensburg, PA 15601

• Lancaster County Branch
Pennsylvania Association for the Blind
244 North Queen Street
Lancaster, PA 17603

• Pittsburgh Blind Association
300 South Craig Street
Pittsburgh, PA 15213

Washington-Greene County Branch
Pennsylvania Association for the Blind
254 North Main Street
Washington, PA 15301

PUERTO RICO

Puerto Rico Industries for the Blind Corp.
Box 13382
Santurce, PR 00908

TENNESSEE

A.P. Mills Industries for the Blind
346 St. Paul Street
P.O. Box 2175
Memphis, TN 38101

Volunteer Blind Industries, Inc.
758 West First South Street
Morristown, TN 37814

Mason Brandon Industries for the Blind
4110 Charlotte Avenue
P.O. Box 90227
Nashville, TN 37209

TEXAS

Southwest Lighthouse for the Blind
409 South Cleveland
P.O. Box 31000
Amarillo, TX 79120

Travis Association for the Blind
2831 Manchaca Road
P.O. Box 3297
Austin, TX 78764

South Texas Lighthouse for the Blind
1907 Leopard Street
P.O. Box 9697
Corpus Christi, TX 78408

• Dallas County Association for the Blind
3840 Capitol Avenue
P.O. Box 64420
Dallas, TX 75206

El Paso County Association for the Blind
100 Dunne Avenue
El Paso, TX 79905

Tarrant County Association for the Blind
912 West Broadway
Fort Worth, TX 76104

• Lighthouse for the Blind of Houston
3530 West Dallas
P.O. Box 13435
Houston, TX 77109

Southwest Lighthouse for the Blind
607 Main Street
P.O. Box 10102
Lubbock, TX 79408

West Texas Lighthouse for the Blind, Inc.
2001 Austin Street
San Angelo, TX 76903

San Antonio Association for the Blind
2305 Roosevelt Avenue
P.O. Box 10230
San Antonio, TX 78210

East Texas Lighthouse for the Blind
Route 14, Box 67
Tyler, TX 75707

Lighthouse for the Blind
700 South 15th Street
Waco, TX 76706

Beacon Lighthouse for the Blind
300 Seventh Street
Wichita Falls, TX 76301

UTAH

Utah Industries for the Blind
1595 West Fifth South
Salt Lake City, UT 84104

VERMONT

Vermont Workshop for the Blind
c/o Vermont Allied Services
103 Main Street
Waterbury, VT 05676

VIRGINIA

• Virginia Industries for the Blind
1102 Monticello Road
P.O. Box 259
Charlottesville, VA 22902

• Virginia Industries for the Blind
1535 High Street
P.O. Box 27563
Richmond, VA 23261

WASHINGTON

• The Lighthouse for the Blind, Inc.
2501 South Plum Street
P.O. Box C-14119
Seattle, WA 98114

WISCONSIN

• Industries for the Blind
3220 West Vliet Street
Milwaukee, WI 53208

Wisconsin Workshop for the Blind
5316 West State Street
Milwaukee, WI 53208

• Accredited by the National Accreditation Council (NAC)

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Falls Church, VA 22041

Legislative Affairs Office:
3530 Moncure Avenue
Falls Church, VA 22041

Technical Center:
10679 Midwest Industrial Boulevard
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This report edited and designed by The Fortin System, Caldwell, New Jersey 07006

Blind Association of Western New York
1170 MAIN STREET, BUFFALO, N.Y. 14209 · 716/882-1025
Member Agency of the United Way

May 23, 1980

MAY 29 1980

Congressman Edward P. Beard
Committee on Education and Labor
U. S. House of Representatives
Cannon House Office Building-Rm. 131
Washington, D. C. 20515

JUN 30 1980

Dear Congressman Beard:

I would appreciate it if the attached would be entered as part of the testimony of the Oversight Hearings on Tuesday, May 14 and Wednesday, May 15 by the Sub Committee on Labor Standards covering Section 14(C) of the Fair Labor Standards Act which allows for sub-wages to be paid to handicapped persons.

Most sincerely yours,

Stanley J. Grenn
STANLEY J. GRENN
EXECUTIVE DIRECTOR

SJG/cm
enclosure

Blind Association of Western New York
1170 MAIN STREET, BUFFALO, N.Y. 14209 · 716/[illegible]

Member Agency of the United Way

May 21, 1980

Dear Colleague:

On the evening of May 14, 1980, the largest N.F.B. chapter in New York State (Buffalo Chapter of the National Federation of the Blind of New York State Inc.) overwhelmingly voted in open opposition to Assembly Bill A-9558 and Senate Bill S-8056. These bills would require workshops for the blind in New York State to pay no less than minimum wage to all of their blind employees.

I have a great deal of respect for the Buffalo Chapter of the National Federation of the Blind, not because they have come out in opposition to these bills, but because they had the courage to vote for what they believe is in the best interests of blind persons even though this action will not be well received by the national leadership of the N.F.B.

Enclosed is a copy of a letter written to the Editor of the Buffalo Courier Express by Assemblymen Bill Hoyt regarding the minimum wage bills. Bill Hoyt has been very supportive of our efforts to fight these bills and is a strong advocate of "constructive" legislation that will improve the lives of blind people. We are fortunate to have him representing us in the state legislature.

Sincerely,

STANLEY J. GRENN
EXECUTIVE DIRECTOR

SJG/cm

State Bills to Benefit the Blind

I read with interest your article of May 2, "Blind are Seeking Passage of Three Bills," which discusses the National Federation of the Blind's support of bills now pending in the State Legislature.

The first piece of legislation mentioned is one that would permit a blind person to serve on a jury except in cases where the court determines that vision is necessary to serve effectively. This bill has passed the Assembly with my full support and is now before the Senate Judiciary Committee. I urge all who believe that in most cases there is no rational basis for the exclusion of the blind as jurors to inform their local state senator of their support.

The second measure, the "Model' Insurance Bill,", although not yet formally introduced in the Assembly or Senate, is now being studied and prepared by the Assembly Task Force on the Handicapped. It is hoped that passage of such legislation would eliminate discrimination in insurance rates for the visually handicapped. I urge anyone aware of such discriminatory practices to contact the Task Force on the Handicapped to further substantiate the need for this legislative remedy.

The third bill, which would allow a blind person employed in a sheltered workshop to earn minimum wage, although well intentioned, has been under much controversy even within existing organizations for the blind. Questions of possible contract loss for these workshops and resulting job loss, the effect minimum wage have on the multi-handicapped blind employee whose production level is considerably lower than that of the "normal" blind employee and effect on eligibility for Social Security and SSI benefits must be satisfactorily answered, in my estimation, before passage of such legislation becomes a reality.

One other bill, I am pleased to report, has just passed both houses of the legislature and would prevent the foreclosure upon and sale of personal property of a medical or dental nature necessary for the sustaining of life or the normal functioning by a person with a permanent disability, including Seeing Eye and hearing guide dogs. The legislation currently awaits the governor's signature.

I commend The News for timely reporting of these pending measures and their continued interest in problems of the disabied.

WILLIAM B. HOYT
Member of Assembly

BEN. 5/20/80

THE JEWISH GUILD FOR THE BLIND
15 WEST 65TH STREET
NEW YORK, NEW YORK • 10023
(212) 595-2000

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[illegible]
Serving All Ages, Races and Creeds
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May 28, 1980

The Honorable Edward P. Beard, Chairman
Subcommittee on Labor Standards
Committee on Education and Labor
U.S. House of Representatives
617 House Office Annex #1
Washington, D.C. 20515

Dear Congressman Beard:

I refer to your recent oversight hearings regarding Section 14C of the Fair Labor Standards Act held on May 14 and 15, this year. It is my understanding that the Wall Street Journal articles published in 1979 about sheltered workshops will be made part of the record.

Because I believe that these articles contain many inaccuracies, I enclose a letter sent to the Wall Street Journal by the President of The Jewish Guild For The Blind which rebuts the contents of articles where they make reference to this organization.

I request that this letter be published and made part of the hearing record.

Sincerely yours,

John F. Heimerdinger
Executive Director

JFH/jmc
enc.

cc: Hon. Richard Ottinger
Col. John Hanger
Bernard H. Mendik

THE JEWISH GUILD FOR THE BLIND
15 WEST 65TH STREET
NEW YORK, NEW YORK • 10023
(212) 595 2000

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February 13, 1979

To The Editor of
The Wall Street Journal

Your January 25, 1979 article, critical of The Jewish Guild for the Blind and its staff, contained serious inaccuracies, and attempted to discredit a philanthropic agency which has provided a much needed service for the blind and multi-handicapped persons in our community for sixty-five years.

The Guild was founded in 1914 by a group of citizens originally concerned with the plight of blind Jewish children. In the ensuing decades, The Guild has evolved into a multi-service agency serving all blind persons, regardless of race, age or religion who come to it in desperate need, seeking help to cope with blindness that is usually coupled with other serious mental and physical disabilities.

The Guild's services include a Home for the Aged Blind; a community residence for multiply handicapped young adults; a school for multiply handicapped children; a full service rehabilitation program; a mental health clinic, a senior citizens program; and sheltered workshops designed to give employment and meaningful activity experiences to those for whom access to the normal world of work is too often denied. The Guild actively assists clients in finding and succeeding in jobs in the regular world of employment; not being satisfied with the limited number of such jobs that are open to the blind and handicapped. The Guild also actively works with government and business entities to create more job opportunities for such persons.

Your reporters particularly attacked our sheltered workshops. They took liberties with our freely given financial statements and disregarded any attempt by our Executive Director to explain the painful evolution of the workshops and their admitted present difficulties. The workshop program at The Guild was originally conceived by our Board of Directors as a means of making the blind become more self-sufficient and to end the abhorrent practice of selling pencils on street corners. Our first workshops were designed for the assembly of dolls and for fabric weaving. Better programs were later derived to teach skills, which it was hoped, would train the blind for gainful employment in industry. This has only been partly successful. Last year, although we placed almost twenty-five blind clients in various industries, only three came out of our workshops, mainly because our blind workers who are often handicapped with other disabilities, rarely become fully capable of competing for jobs in the highly skilled workshop industries. The full irony of this workshop program, contrary to your reporters' view, is that it is almost impossible for it to make a profit. It cannot hope to compete with private industry and is almost fully dependent upon the uncertainties of government contracts. Even more ironically, when we are able to train workers so that they are good enough to earn their way we try very hard to lose them to industry through our placement program.

Your reporters tried to picture The Guild as an exploiter of blind people rather than the great philanthropy that it is. They did this by innuendo and purposeful distortions. For example, they reported that our workers worked eleven stories below Mr. Heimerdinger in the sub-basement. The "sub-basement" is air conditioned, well lighted and contains the most modern of facilities for the workers.

They stated that workers get 10% of sales revenue as wages. This is approximately correct, but what real meaning does it have? The question is not what percentage the workers receive, but whether or not they are fairly treated. The Guild tries to give therapeutic work experiences to blind clients who cannot find employment in the outside world. All our wages are based on minimum wage standards, or higher, as set forth by special legislation and monitored by the Department of Labor. Earnings are based upon a client's actual productivity and reflect their serious vocational limitations.

Your reporters indicated that "a hugh amount of overhead" is charged to the sheltered workshops. Our 1977 audited statement indicates that of $2,424,539 of total workshop costs, $343,346 were allocated costs. The remainder is our direct operating costs. If allocated costs were to be completely disregarded, as your reporters suggest, our workshops would still have had a deficit of approximately $464,000 in 1977 instead of the real loss reported of $807,058. Our 1978 report, which was not completed at the time of your reporters' inspection, will show losses for the workshop approximating $600,000.

Your reporters' suggestion, that The Guild's premises are underutilized by purporting to quote Mr. Heimerdinger as stating that only fifty-six blind persons had been involved in activities in the building on the day of the reporters' visit, is just untrue. That number was given as the attendance at a specific program serving senior citizens on that day. There were many other programs in which Guild clients participated in the building on that day. Moreover, the reporters even failed to note that their visit had occurred on the Tuesday preceding Thanksgiving (two months before their article was published) when it was not unusual for senior citizens to be visiting families and not attending programs at The Guild.

The funds necessary to maintain all the programs at The Guild, including the sheltered workshop, greatly exceed the assistance given by the State and Federal government. Your reporters even distorted the use of legacies given to The Guild by persons concerned with the plight of the blind. The Guild did not show a $1,000,000 profit in 1977, unless you incorrectly count as income, bequests to The Guild in the wills of supporters who died during the year. A good portion of each year's legacies are used to reduce the deficit and the balance is put back into the endowment fund to produce income which is also used to reduce its annual deficit. Without this endowment fund and the annual legacies, The Guild would not stand much of a chance of surviving in the ever increasing reality of the budget crunches of the Federal and State governments.

Your reporters also made reference to the salary earned by The Guild's Executive Director, John Heimerdinger, and to his office furnishings, implying that they were lavish. This is just not so. His office, and indeed the entire building, was built with funds donated by the Board of Directors and other generous people. They wrongly compared Mr. Heimerdinger's salary as Executive Director with his reported salary for the year during the latter part of which he became Executive Director. They came as close as they could to suggesting that The Guild made false reports, and they clearly suggested that there was something wrong in deferring a percentage of his salary, a benefit expressly granted to employees of not-for-profit organizations by Section 403(b) of the Internal Revenue Code.

Thersitical reporting which operates at this level should not be dignified by a reply, but it should at least be stated that a salary of $50,000 a year to the full-time head of a complex organization with an operating budget in excess of $12,000,000 is by no means excessive. Other staff salaries are also commensurate with the high level of training and responsibility in each case. The Guild is fortunate in having dedicated, highly qualified staff personnel and a Board of Directors made up of distinguished men and women who selflessly and freely give of their time and their money in furtherance of The Guild's aims.

Fairness dictates that a thorough and proper examination of The Guild, its records and its practices be made at once to set the record straight. You owe this much at least to the many concerned citizens who support it and to the blind people, counting in the thousands, who have benefited in the past and those who will benefit in the future from The Guild.

Bernard H. Mendik
President

The Lighthouse for the Blind

(504) [illegible]

123 STATE STREET
NEW ORLEANS, LA. 70118

May 28, 1980

Honorable Edward P. Beard - Chairman
Sub Committee on Labor Standards
Committee on Education and Labor
United States House of Representatives
617 House Office Annex #1
Washington, D. C. 20515

Re: Oversight Hearing
Section 14(C) F.L.S.A.
May 14, 1980 - May 15, 1980

Dear Mr. Beard:

It has come to my attention that during your Sub Committee Oversight Hearing to cover Section 14(C) of the Fair Labor Standards Act held on May 14 and May 15, 1980, a Mr. Jerry E. Lorense entered into his testimony The Wall Street Journal article of January 24 and January 25, 1979.

On February 14, 1979 I forwarded to Mr. Lawrence G. O'Donnell, Managing Editor of The Wall Street Journal, my reply to the two articles mentioned above, stating the opinion of the Lighthouse for the Blind in New Orleans regarding the content of these articles. Needless to say, I should hope that no one in a decision making position could base the outcome of your hearing on any portion of the content of these articles.

As additional documentation into the hearing record is to be allowed for thirty days from the date of the hearing, I respectfully and strongly request that my letter of February 14, 1979 be entered into the record. A copy of this letter is attached.

Respectfully,

R. G. Harmer
Executive Director

RGH/php
Enc.
cc: Dr. James H. Allen

The Lighthouse for the Blind

(504) 899-4501

123 STATE STREET
NEW ORLEANS, LA. 70118

February 14, 1979

Mr. Lawrence G. O'Donnell
Managing Editor
The Wall Street Journal
22 Courtland Street
New York, New York 10007

Dear Mr. O'Donnell:

I make reference to your publications of January 24 and January 25, 1979 in which you presented a two part article titled "Sheltered Shops". As the Executive Director of the Lighthouse for the Blind in New Orleans, I feel qualified to state that in my opinion your staff reporters Jonathan Kwitny and Jerry Landauer have most certainly lowered the credibility of The Wall Street Journal. What you have allowed to be published, Mr. O'Donnell, is a classic example for journalism students to observe as to what can be written by the use of facts and figures not properly reported, by the use of half truths, by the lack of investigation into the facts, and how statistics can be used to mislead the reader.

It is very obvious that The Wall Street Journal has published this material on behalf of the National Federation of the Blind who as you state "argues that sheltered workshops should be phased out and replaced with training in cane travel, Braille, and other skills for placement of the blind in private industry". Your reporting fails to follow through on this philosophy as to the validity of this approach.

Your opening paragraph refers to "so-called sheltered workshops". These are not so-called sheltered workshops. They are sheltered workshops. Sheltered workshops are defined by the U. S. Department of Labor and, contrary to your writing, are regulated by the U. S. Department of Labor, Employment Standards Administrative, Wage and Hour Division. What you failed to do for the reader is explain actually what a sheltered workshop is, why there are sheltered workshops, how sheltered workshops are regulated under the law, or how sheltered workshops are supported.

You state that the workshops have an aura of respect operating under the aegis of the President's Committee and its' Director, Charles W. Fletcher. Translated I find this to read - The Workshops have a distinctive atmosphere surrounding them as they operate under the protection and sponsorship of the President's Committee and its Director, Charles W. Fletcher. What you failed to do for the reader is to explain that while there are federal agencies required by law to give special purchasing considerations to the sheltered workshops, there are strict and defined qualifications that the workshop must meet in addition to the manufacturing specifications that must be adhered to, the same as for any competitive industrial supplier to the U. S. Governmental agencies. Sheltered workshops are not protected by Mr. Fletcher and the committee as you insinuate, rather, Mr. Fletcher and his staff, carry out the responsibilities mandated them in a firm and regulated manner. Here again, you fail to inform the reader of what this law is and how it is carried out.

The Wall Street Journal staff reporters make reference to piece rates, hourly rates, and minimum wage rates. You make no reference to wages earned versus wages paid. You make no reference to supplemental wages paid. You fail to make mention that the U. S. Department of Labor clearly defines wage requirements under certificates. Your reference to General Electric, Proctor & Gamble and American Telephone & Telegraph fattening their profits by sub-contracting to the workshops is most unfair to these companies and the workshops. Since the Wage and Hour Division of the U. S. Department of Labor states that "Clients paid at piece rates are required to be paid not less than the prevailing piece rates paid non-handicapped workers in industry in the vicinity for the same type work", I fail to see how these blind workers can be receiving "coolie wages". Also, the companies that you mention were awarding contracts to workshops long before affirmative action became popular.

In referring to "Work Activity Centers" you fail to advise the reader that under the U. S. Department of Labor regulations "The clients physical or mental impairment must be so severe as to make their productive capacity inconsequential".

I know as fact, Mr. O'Donnell, that as your staff reporters were interviewing the administrators referred to in your two part article, these administrators attempted to explain not only the aforementioned facts but also many more that I have not addressed.

Because the Lighthouse for the Blind in New Orleans is one of the over 100 workshops around the country that you referred to and because the Lighthouse for the Blind in New Orleans is one of the nearly 100 workshops affiliated with National Industries for the Blind that you referred to and because the Lighthouse for the Blind in New Orleans is one of the workshops that manufactures products for the federal government under the control of the President's Committee that you referred to and because the Lighthouse for the Blind in New Orleans has contracted with some of the big companies that you referred to, I have no choice but to determine that the bias and misleading statements made by The Wall Street Journal, while not naming the Lighthouse for the Blind in New Orleans, has aimed these innuendos at the Lighthouse for the Blind in New Orleans.

On behalf of the officers and members of the Lighthouse for the Blind in New Orleans Board of Directors, the many blind and visually handicapped persons that we serve and the south Louisiana community that assists in the support of our programs, I must demand that you assume your journalistic responsibility by taking immediate action to factually report on sheltered workshops for the blind. Needless to say, the Lighthouse for the Blind in New Orleans would be most agreeable to an interview by a non-bias reporter seeking to report on the facts.

Sincerely,

R. G. Harmer
Executive Director

RGH/php

cc: Mr. Ray Shaw - Executive Vice-President
Mr. E. R. Cony - Vice President/News
Mr. Robert L. Bartley - Editor
Members Lighthouse for the Blind in New Orleans, Board of Directors
Mr. Melvin Myers - Louisiana Rehabilitation Services
American Foundation for the Blind
Affiliated Leadership League
General Council of Workshops for the Blind
National Industries for the Blind

Rhode Island
Association for the Blind
1058 Broad Street
Providence, Rhode Island 02905
(401) 941-5421

June 11, 1980

The Honorable Edward P. Beard
Chairman, Sub-Committee Labor Standards
House of Representatives
131 Cannon House Office Building
Washington, D.C. 20515

RE: Oversight Hearings on Wages
Paid Handicapped Employees

Dear Congressman Beard:

Enclosed please find my statement in regard to an amendment, being considered, to Article 14(c) of the Fair Labor Standards Act of 1939, that would guarantee the federal minimum wage for blind persons in sheltered workshops.

Sincerely,

Robert H. Carolan
Executive Director

RHC:nz

Enclosures(5)

Robert H. Carolan, *executive director.*

Sent to: John H. Chafee
Fernand J. St. Germain
Claiborne Pell

December 16, 1977

The Honorable Edward P. Beard
House of Representatives
131 Cannon House Office Building
Washington, D.C. 20515

Dear Congessman Beard:

The Rhode Island Association for the Blind, the largest, private, professionally staffed organization for the rehabilitation, education and social welfare of blind people in our State opposed H.R. 8104, an amendment that would guarantee the federal minimum wage for blind persons in sheltered workshops.

At first blush, this would seem to be contrary to the rights we have labored so long and hard to achieve for blind people. But as one of the first three organizations for the blind in the nation to be accredited, we sincerely believe H.R. 8104 is not in the best interests of blind workers. Our reason is simple. By their very definition, sheltered workshops are not competitive. The majority of employees of any sheltered workshop for the blind are multiple handicapped, blind persons who cannot compete in the outside world. They need special working conditions, special guidance and special counseling. And, with some exceptions of course, their output does not nearly equal that of able-bodied industrial employees.

The sheltered workshop charges the same rates to its customers but has the added expense of highly trained social, psychological, medical and rehabilitative staff members to meet the needs of workshop employees. Thus, costs are higher while production and income are considerably lower for the sheltered workshop.

Under the proposed terms of H.RR.8104, wage costs to the workshop would rise dramatically to the point where it would not be feasible for the workshop to continue operations. In other words, HRR. 8104 could threaten the very livelihood of those it is designed to help. Admittedly, we should be the last organization to call for anything but full and equal opportunity for the handicapped. But faced with the possibility of a decline in sheltered workshops vs. the higher minimum wage, we strongly opt for the former.

As professionals in the rehabilitation and welfare of blind people, we truly believe that it is better for those requiring a sheltered workshop situation to have emoloyment at a lower wage than no wage at all. Having a job - even a low paying one - is essential to rehabilitation for it forces workshop employees to leave the home, to travel to work, and to perform in a job. This helps them overcome the social withdrawal which often accompanies blindness, and it gives them the skill to survive in a sighted world. More importantly, it gives blind persons a reason for being. In fact, for many it may be the only purpose they have in life.

For the thousands of blind people who can compete with their sighted peers and do not need special guidance, we think H.R. 8104 is great. We applaude it. But for the equal thousands who cannot possibly compete outside of a sheltered workshop, we believe H.R. 8104 is a severe threat to their economic, social and psychological well being.

Sincerely,

Armand P. Leco
President

APL:dmp

Editorial

Providence Journal-Bulletin

SATURDAY, JANUARY 7, 1978

Mr. Beard's misguided bill

Congressman Ed Beard's oft-proclaimed concern for "the little man" was working overtime when he put his name to a bill that would extend the new minimum wage law to cover blind persons working in "sheltered" workshops. If this misguided bill somehow got past the Congress, it would hurt the very persons whom it is apparently intended to help.

No one would quarrel with the idea that a blind or otherwise handicapped person should be paid the same as a worker who has all of his faculties intact, given a situation where both do the same work and of the same quality in a factory. But that is not the case here.

A sheltered workshop is not your everyday for-profit factory. It is a kind of halfway house between a factory and a vocational school in which the handicapped are trained and given productive jobs at nominal and usually subsidized wages. Along with the satisfaction of being able to contribute something to their own livelihood they get social and psychological support services from trained rehabilitative staffs in the workshop environment.

While regulated by the federal government, these workshops are exempt from the minimum wage law for the very valid reason that few of their workers could compete in the open job market with non-handicapped persons. As Robert Carolan, executive director of the Rhode Island Association for the Blind, informed Mr. Beard in a letter protesting the proposed legislation, "the measure would threaten the very livelihood of those it is designed to help."

After two years in Washington, Representative Beard should know better. Good intentions are a poor foundation on which to build good law.

STATEMENT OF ROBERT H. CAROLAN, EXECUTIVE DIRECTOR, RHODE ISLAND ASSOCIATION FOR THE BLIND, TO THE SUB-COMMITTEE, LABOR STANDARDS, U.S. HOUSE OF REPRESENTATIVES, REGARDING OVERSIGHT HEARINGS ON WAGES PAID HANDICAPPED EMPLOYEES - SECTION 14(c) OF THE FAIR LABOR STANDARDS ACT OF 1938.

The Rhode Island Association for the Blind is a professionally staffed and accredited non profit organization for rehabilitation, education and social welfare of blind people.

Services

1. Vocational Rehabilitation Services - Sheltered Workshop evaluates, trains and provides employment for blind persons in the Rhode Island Association for the Blind Sheltered Workshop or in outside industry.
2. Social Service -service provides counseling, family seminars and conferences to help blind people to adjust to blindness and/or severe visual impairment.
3. Geriatric Adjustment Program - helps older blind or visually handicapped persons regain confidence and skills necessary to function safely and productively at home and in the community.
4. Vision Rehabilitation Service - enables persons with remaining vision to use it better and in a safe manner by providing high magnification lenses for reading, watching television and to travel independeptly.
5. Children and Youth Services - through counseling and supplemental instruction children or youth are assisted in development to function comfortably and safely at home, at school and in the community.
6. Volunteer Service - provides sighted guides for travel

and shopping, readers, braille transcribers, and books on tape for the blind and visually handicapped.

Population

In Rhode Island it is estimated that there are 8,343 legally blind persons. The Rhode Island Association for the Blind has basic programs which do work intensively with the client and families. These programs help clients gain or regain confidence & skills so they can be contributing members of their families and the community in which they live. In 1979 we worked with approximately 600 clients in the above program. The Sheltered Workshop and the Geriatric Adjustment Program provides intensive services on a five (5) day a week basis. We also serve blind and visually impaired persons who come to us from nearby Massachusetts communities.

Vocational Rehabilitation - Sheltered Workshop

In 1979 a total of 51 persons received services in the Sheltered Workshop of this Agency and 7 persons received a complete, vocational evaluation and training program. The majority of persons receiving sheltered workshop services have handicaps in addition to visual; i.e., diabetes, cerebral palsy, multiple sclerosis, orthopedic, mental retardation, deaf-blind, speech and language, and elderly. A social worker is provided all handicapped workers in the vocational program and other services mentioned above are provided as needed. In addition arrangements are made with other community resources for services not provided by this Agency.

The cost of operating the Sheltered Workshop in 1979 was $386,799. Income derived from this operation was $216,719 for a total operating loss of $179,080.

1979 Earnings

(In 1979 minimum was $2.90 per hour)
(Guarantee was 50% of minimum or $1.45 per hour)

14 - client employees earned over $2.90/hr.

30 - client employees earned between $1.45/hr. & $2.90/hr.

7 - client employees earned less than $1.45/hr. and were subsidized to $1.45/hr.

1979 Range

High - $4.92/hour

Low - $ .63/hour

Average - $2.49/hour

Placement per Year

Over the last 9 years an average of 2.1 placements of client employees were made in local industries.

Benefits

Approximately 85% of handicapped workers have completed the vocational evaluation and training programs and are classified as client employees and are receiving the following fringe benefits fully financed by this Association.

- 10 days paid vacation (15 days with 10 years service and 20 days with 20 years service)

- 3 days bereavement leave
- 2 days paid personal leave
- 9 days paid holidays
- 6 days paid sick leave in addition to the Rhode Island state temporary disability pay.

  Blue Cross & Blue Shield coverage paid by this Agency with the difference for Major Medical coverage paid by worker at group rate (if not covered by a government medical program)
- group life insurance coverage to the next highest thousand of annual earnings
- a retirement pension program

The added advantage of a sound fringe benefit program is the fact that government support payments received by the majority of handicapped workers are not reduced as a result of receiving fringe benefits, whereas, if their pay were subsidized up to the minimum wage level government support programs would cease or be reduced. In effect, the agencies operating sheltered workshops would be taking over the welfare role of the government. Furthermore, incentive plays a major role in rehabilitation and this would be lost in most cases if people are guaranteed a wage far above their earning capability. It has been the experience of this Agency that production decreases when government support programs are threatened to be reduced due to higher earnings. If the minimum wage were guaranteed, various means would be used by individuals to lessen the number of hours worked and this in turn would inhibit rehabilitation. In many cases handicapped workers would be at home, more, adding to family or rest home care and responsibilities.

In conclusion, we believe that to guarantee the minimum wage to Sheltered Workshop Client Employees who are unable to compete in the market place and, therefore, limited to employment in the sheltered workshops, would be detrimental. In fact, it would be financially necessary to either reduce support services or terminate the sheltered workshop operations. To extend the minimum wage concept is contrary to the very purpose and rationale for the Sheltered Workshops Program as sponsored by the Fair Labor Standards Act. For the above reasons we are against the proposed Amendment to 14c presently being considered.

National Industries for the Blind
LEGISLATIVE AFFAIRS DIVISION
3530 Moncure Avenue
Falls Church, VA 22041
(703) 998-0770

THOR W. KOLLE, JR.
Chairman
ABRAM CLAUDE, JR.
President
PETER K. DEEKS
Secretary-Treasurer
GEORGE J. MERTZ
Executive Vice President

June 12, 1980

Mr. Edward P. Beard, Chairman
Subcommittee on Labor Standards
Committee on Education and Labor
United States House of Representatives
617 House Office Annex #1
Washington, D. C. 20515

Dear Mr. Beard:

At the Oversight Hearing held on May 15, 1980 before the Subcommittee on Labor Standards of the Committee on Education and Labor on Section 14(c) of the Fair Labor Standards Act wage payments in workshops for the blind were discussed very briefly. A paper covering this subject was left with Mr. Earl F. Pasbach, Staff Director/Counsel, for the Sub committee.

I am enclosing a copy of this paper and request that it be entered into the official record.

Sincerely,

J. W. Hanger
Vice President
Legislative Affairs

JWH:rhw

Enclosure

NATIONAL INDUSTRIES FOR THE BLIND
Additional Testimony for the Record
On the Congressional Hearings
on
Section 14 C of the Fair Labor Standard Act
to the
Subcommittee on Labor Standards
US House of Representatives
by
Jack R. Jones, Director, Industrial Engineering

Ref: WAGE PAYMENTS IN WORKSHOPS FOR THE BLIND

Dear Chairman Beard:

I. Determining Wage Rates: Workshops for the blind use wage rates that are the same as those paid non-handicapped workers in regular industry.

For each of their manufacturing operations, the shops determine the "going hourly pay" in plants in their own local geographical area for operations that are the same or have similar skill levels to their manufacturing operations. The most common source for these wage rates is thier local Employment Service. Other common sources are Chamber of Commerce surveys, local industry and trade associations. In addition, DoL publications, Unions, NIB and the DoL's local Wage and Hour Division are often used.

II. Applying Wage Rates: The hourly wage rate as determined above is paid to the workers, the same as in regular industry. If a workshop cannot afford to pay the hourly rate because of the extent of submarginal workers, they can apply to the DoL for one or more certificates which lowers the minimum wage requirements for the submarginal workers.

The majority of shops for the blind use piece rates. Here, the dollars per hour wage rate is applied to a pieces per hour production rate to determine the dollars per piece to be paid. The production rate is based on the number of pieces that can be produced by non-handicapped workers doing that exact same operation as determined by a Motion and Time Study or a Methods-Time Measurement (MTM) analysis. These same procedures are also used in regular industry andthe resultant piece rate should be exactly the same. Piece rates from industry are rarely used, however, because a workshop's operations are usually modified in order to adapt to the capabilities of blind workers. Workers are paid this piece rate for every piece which they produce. When a particular worker's resultant earnings fall below the federal minimum wage or minimum wage set by an applicable certificate, he is paid at least the applicable hourly minimum.

Earnings of employees paid by the hour are similarly based on their productivity. Generally, the individual worker's actual production is compared to a normal production standard to establish his percent productivity. The comparison is generally done at the end of each pay period based on the period's performance reports. The standard is set by a Motion and Time Study, MTM analysis or studies based on production records.

Occasionally, a production standard is not developed and an individual's productivity is determined by observation or performance rating. Performance ratings are generally done by the individual's foreman along with a rehabilitation counselor.

They observe the worker for an extended period and determine how his productivity compares with a non-handicapped worker. In both cases above, the worker's earnings are his percent productivity of the prevailing wage rate or the applicable minimum wage, whichever is higher.

There are three additional points which are relative to wage payments in the workshops associated with NIB. Workshops for the blind often establish their own "floor rates" that are higher than the applicable minimum set by their certificates. If a worker's productivity results in earnings above the federal minimum wage, the workshops pay his commensurate earnings although it is not required by law. Most workshops for the blind have extensive fringe benefit programs which rival those of industry. Workshops' fringe benefits averaged 27.5% of their payrolls in FY 1979.

III. Analyzing Wage Rates: It is difficult to verify the appropriateness of workshop wage rates. To do so, it is necessary to go over each individual shop's records, operation by operation, and do a wage rate survey in the area. Comparisons of industry averages, average wages from annual reports and average wages by product from the Committee's records can be very misleading. It is like comparing an apple to the entire supermarket, since an individual operation in a certain area is only one small unique part of the total.

Industry averages are usually somewhat higher than workshop wage rates because the average operation in industry is generally more complex and involves a higher skill level than operations in a workshop. For instance, sewing a sleeve into a shirt should not be compared to side seaming a pillowcase.

NATIONAL INDUSTRIES FOR THE BLIND

Annual report figures do not show average wage rates. They show average earnings which are the result of the worker's productivity plus make up pay and subsidy. Due to the great influx of multiple handicapped workers, we could actually expect a decrease in this average earnings figure.

The Committee's records show a weighted average wage rate of the operations for a particular product. This is misleading since the wage rate for major operations can be influenced significantly up or down by the other operations involved. For example, in the same shop, the average rate for sewing Operating Caps is $3.70 while for sewing Food Handler's Caps, it is $4.18. The wage rate of the Food Handler's Cap is 13% higher--influenced by the more extensive cutting required.

Area differences complicate comparisons all the more. For example, a DoL study shows wages in the apparel industry in Austin, Texas are 67% of the national average. However, in Buffalo, New York, they are 136% of the national average--more than double.

From the foregoing, it seems obvious that these overall averages are not a good indication of specific operations in specific shops. NIB does, however, attempt to monitor shop wages. Our Industrial Engineering Department takes a close look at wages used on shop cost analyses. In addition, they publish, lecture and advise on wage rates to workshop management almost constantly. In working with the shops for the blind, we have found very few instances where we feel a particular rate is too low. Also, when we have found something questionable, shop management has actually been anxious to correct the rate and compensate the worker(s) involved.

Of course, we wish wages could be higher and work with the shops in increasing them wherever they can. At the same time, we feel strongly that they are commensurate with area industry rates for similar skill levels. Furthermore, if we pushed them too high, the shops would not be able to compete for the work they so desperately need to employ our citizens who are blind.

Jack R. Jones
Director, Industrial Engineering

JRJ:cs

May 7, 1979

STATEMENT

RESPECTFULLY SUBMITTED TO THE SUBCOMMITTEE
ON LABOR STANDARDS OF THE HOUSE
COMMITTEE ON EDUCATION AND LABOR

ON

SECTION 14 (C) OF THE FAIR LABOR STANDARDS ACT

ON BEHALF OF

UNITED CEREBRAL PALSY ASSOCIATIONS, INC.

THE CHESTER ARTHUR BUILDING
425 "EYE" STREET, N.W.
SUITE 141
WASHINGTON, D.C. 20001

June 18, 1980

U.C.P.A. Governmental Activities Office Washington, D.C.

INTRODUCTION

United Cerebral Palsy Associations, Inc., is pleased to have this opportunity to submit testimony to the Subcommittee on Labor Standards of the House Committee on Education and Labor concerning Section 14 (c) of the Fair Labor Standards Act. This issue of payment of wages in sheltered workshops is a difficult one and we commend the Subcommittee for taking an indepth look at this complex problem. Persons with cerebral palsy represent a rather widespread gamut of disabilities: from those who have only minor speaking and/or ambulation problems, to those severely involved persons with cerebral palsy, some of whom may also be mentally retarded. Approximately 55 UCP affiliates operate sheltered workshops or work activity centers. Also some of our affiliates operate other types of employment programs which serve severely handicapped persons and place these persons in competitive employment. Therefore, because we represent a wide variety of handicapping conditions as well as a wide variety of employment programs for persons with cerebral palsy, we feel we are in a somewhat unique position to comment on Section 14 (c) of the Fair Labor Standards Act as well as the direction which we believe sheltered workshops should take.

In November, 1979 UCPA convened a working Conference on Employment. The purpose of this conference was to bring together a variety of persons from within our organization to work on a viable employment policy for UCPA. Heretofore, while we fully endorsed the employment of persons with cerebral palsy and indeed had this as one of our national goals, it had been some years since we had examined the variety of employment possibilities for persons with cerebral palsy and our organizational role in providing opportunities for persons with cerebral palsy to reach their full employment potential. The members of our working conference represented professionals in the employment and education fields; professionals with a specific knowledge of sheltered workshops; persons knowledgeable in vocational rehabilitation and - most important - persons with cerebral palsy who have had a variety of employment experiences. Together we were able to work out UCPA'S Policy Statement on Employment and Career Education. This statement was adopted by the UCPA Corporate body in early May and is attached for your information.

We would point out that UCPA'S Policy Statement on Employment and Career Education is comprehensive and seeks to look at not one but many aspects of training and employment. We feel that this approach is critical if we are to fully address the employment needs of the severely handicapped. Further, we believe that the Subcommittee on Labor Standards must take this same eclectic approach if the problems which are faced by both sheltered workshop employees and sheltered workshop administrators are to be solved. For instance, the first goal of the policy statement reads as follows: (UCPA shall work to) ".....elevate the employee/client situation in sheltered workshops and work activity centers in the area of wages, training, and employment opportunities." This statement in and of itself represents a commitment of improving sheltered employment opportunities for the betterment of the clients they serve. Further, the second goal set forth in our policy statement states that UCPA shall work "to promote the provision of at least a minimum of training in pre-employment skills in work activity centers rather than providing services of just a development nature." Thus our organization believes that the role of the sheltered workshop and the work activity center must begin to re-examined as to how it can best meet the individual's needs. However, as our working conference evolved, it became quickly apparent that we could not focus on only one aspect of employment. Rather, we had to look at all aspects of employment and how they inter-relate if we were to form a meaningful employment policy. Thus the UCPA policy statement goes on to address such issues as the need to provide lifetime career opportunities for severely disabled persons; to assist handicapped persons who wish to become self-employed; to provide programs which will enable handicapped persons to obtain managerial skills; the need to promote funding by private employers to expand effective employment programs which will assist persons to be placed in competitive employment market; to work with all appropriate program service entities to promote a comprehensive range of services with particular emphasis on pre-employment, employment, post-employment and follow-along services; to implement more creative and innovative programming with emphasis on rehabilitation engineering and other current technology in exploring job opportunities for the severely disabled;and to work with all appropriate employment education and training entities to fully integrate the education and rehabilitation processes within the public school experience. Thus, our employment policy contains several recommendations which we believe in one way or another have a positive impact on the employment of severely handicapped individuals.

We are certainly not meaning to ignore the importance of Section 14 (c) of the Fair Labor Standards Act or it's signifiance in serving severely disabled persons who are employed in sheltered workshops and work activity centers. Rather we are trying to emphasize the importance in taking a comprehensive approach to the employment needs of the severely disabled. The Subcommittee on Labor Standards has heard on the one hand from a group of consumers that they rightfully deserve to receive at least the minimum wage and on the other hand from those persons who operate sheltered employment programs who say that, if they are required to pay minimum wages to all persons who are employed by sheltered workshops, they will go bankrupt. In a sense, we believe both parties are correct in their assertions. However, this is not merely a labor issue for if it were, it would have a simple solution. We believe that this is a complex problem which involves labor, industry management, rehabilitation, and income support systems; to ignore any of these areas would result in giving a partial answer to the total question.

Further, just as the employment of severely handicapped persons cross cuts the areas of income maintenance education, rehabilitation, labor, and industry, so too must the federal government require all of the agencies involved in the lives of the severely disabled to make a committment to elevating the role of sheltered workshops and those clients whom they serve. We believe that the Department of Labor must work together with the Department of Education(specifically the Office of Special Education and Rehabilitation Services) and the Department of Health and Human Services (specifically the Social Security Administration and Administration on Developmental Disabilities). If we are serious about meeting the needs of severely disabled persons who are employed in sheltered workshops, we must take such a comprehensive approach.

SOME MODEL EMPLOYMENT EXAMPLES

As stated earlier, many UCP affiliates have exemplary employment programs which are beginning to meet the needs of severely handicapped persons. While some of these programs are operated in a sheltered or semi-sheltered environment, other programs are geared toward enabling severely handicapped persons to become competitively employed. A brief overview of these programs encourages the Subcommittee on Labor Standards to take a broader view of what can be done to employ severely handicapped individuals.

- The TALL (Training Alternative for Living and Learning) project of UCPA of Greater Kansas City promotes the concept of partnership among business, industry, and the voluntary sector. The TALL project team identifies potentially adaptable jobs, trains workers to maximum potential, and guarantees the workers performance according to the employer's job requirements. At the same time business and industry steering committee representatives enable job analysis and engineering to take place, cooperate with sensitivity training efforts, and provide some benefits to the disabled worker. The utilization of rehabilitation engineering in the work place characterizes the TALL approach.

- The Center Industries Corporation of Wichita, Kansas, aided by technical assistance from Wichita State University, is primarily a job shop operation providing work in the basic areas of fabrication, matching, and assembly. It employs the physically handicapped alongside the able-bodied in 75% handicapped, 25% able-bodied ratio. Diagnostic test procedures and testing hardware have been designed to determine the physical capabilities of severely physically disabled people, and their requisite job modifications made based on a comparison of client capabilities and job requirements. As a result, severely disabled workers are generally meeting industrial norms and receiving unsubsidized wages, thus making their new status as contributors to society. This UCP of Kansas project is the only non-medically oriented federally funded rehabilitation engineering center in the nation.

- The Employment Project for the Physically Disabled, sponsored by UCPA in San Francisco in cooperation with the California Department of Rehabilitation, conducts vocational education, counseling, and placement services for the job-seeker who is severely physically disabled and who has post-secondary training or education which can be translated into semi-professional and professional-level skills. During the first year of the project's operation, 90% of the individuals completing the program were placed in competitive employment. Project staff also engage in a variety of outreach follow-up and training/technical assistance activities.

- UCPA of Michigan has funded numerous vocationally-related activities including training and technical assistance workshops for in-service DVR personnel, pre-employment seminars for persons with disabilities, and businesses employing handicapped individuals, including a sawmill and a small electrical firm. The state affiliate has even provided funds to support a DVR project to develop and distribute brochures for employers interested in hiring persons with cerebral palsy and other disabilities.

- UCP of West Central Wisconsin has initiated a cooperative project with their local division of vocational rehabilitation. The purpose of the project is to develop a system of early casefinding and vocational rehabilitation services for individuals severely disabled by cerebral palsy. This project was built on the belief that persons having severe involvement with cerebral palsy will achieve greater success in reaching their vocational potential if they receive early and intensive vocational attention and services. For this reason, the target age group was met at 13-25 years. Some of the early accomplishments of this project have included:

    - One 16 year old client had a successful pre-vocational on-the-job work experience during the summer and reportedly returned to school with increased motivation.
    - One 22 year old client was evaluated through the Project at University Hospital as requiring substantial remedial assistance and independent living training in order to reach any vocational potential. The project staff is facilitating his entrance into Courage Center.
    - Project staff had the opportunity to present an in-service to the state school for the deaf to assist their vocational counseling to students with cerebral palsy.
    - Project staff was instrumental in school interdisciplinary staffings to change a 14 year old client's classroom program to vocational oriented goals.
    - The project was able to utilize the UCP Evaluation Clinic to direct a 19 year old client into vocational evaluation.
    - One 19 year old client received support services as she secured successful full-time employment.

The project is presently providing on-going follow-along for 12 clients from seven counties. Three of these have been referred for DVR services. Six additional individuals have been identified as having no vocational potential due to extreme severity of disability.

Again, we are not pointing out these programs to lessen the importance of Section 14 (c) of the Fair Labor Standards Act and the importance which it plays in meeting the wage requirements of sheltered workshops. Neither are we trying to say that UCPA as an organization has all the answers to all of the employment needs of the severely handicapped. Indeed, we are painfully aware of our need to offer improved program support in all areas of employment. However, we do believe that the programs which have been cited above provide at least some fresh and alternative approaches to employment. Again we must emphasize that this is a question which we firmly believe has not one but several answers.

It is important to note that both the TALL Project in Kansas City and Centers Industry in Wichita owe their success, at least in part, to the constructive use of rehabilitation engineering. Prior to the establishment of the National Institute on Handicapped Research there had been little emphasis placed on rehabilitation engineering and the importance it can play in the employment of severely handicapped individuals. Yet we believe that the constructive use of rehabilitation engineering which match existing technological devices and engineering solutions to the needs of handicapped individuals in order to assist such persons in reaching their full employment potential, is critical to all aspects of employment including sheltered workshops. For example, Center Industries (cited above) is working to put applied technology to work for handicapped people. As previously explained Center Industries is operated by UCP of Kansas and is aided by Wichita State University. As a result of the application of sound engineering principles in addressing the demands of rehabilitation, severely disabled workers are meeting the demands of industry and becoming productive members of society Center Industries has proved what can be done when applied technology is directed towards meeting the needs of the consumer.

It is important to note that out of 15 rehabilitation engineering Centers (REC) which are funded by the Rehabilitation Services Administration, Center Industries is the only non-medically oriented REC. Again if we are to upgrade the sheltered workshop environment to provide more meaningful employment experiences for severely disabled as well as improved productivity (which in turn would improve the ease of running sheltered workshops) then applied rehabilitation engineering must be a high priority.

Another example of the creative use of rehabilitation engineering can be seen at the TALL project. TALL's Executive Director, Ronald Torner, testified before the Subcommittee on Select Education of the House Education and Labor Committee in 1978 and we believe that his thoughts on rehabilitation research still accurately expresses the direction in which this type of research must go. He stated:

> "The technology of habilitation could be greatly enhanced by more reality-oriented research conducted through direct partnership with service programs. Besides contributing to the solution of the problems of translation and implementation, it would ensure evaluation by those whom the research is

> designed to benefit as well as ensure real world input to the researcher.
>
> "Further, there must be emphasis on the dissemination of information emerging from research. Valuable information that demonstrates the capabilities of persons with severe disabilities to perform tasks or exhibit behaviors totally inconsistent with previous expectations has been available for several years, and has yet to find its way into practice in comparatively few programs."

Mr. Torner's statement speaks for itself. We would only add that if such technology were applied to sheltered workshop settings it would appear that client productivity would increase thus allowing for increased wages as well. Further, this same technology should enable many persons who were previously not able to enter the competitive job market to do so.

SOME RECOMMENDATIONS

As we have already stated this is a problem which calls for not one but several approaches. Only when sheltered workshops are considered in the total context of employment possibilities can their role be fully understood. On May 14, 1980 the National Association of Rehabilitation Facilities (NARF) testified before the Subcommittee on Labor Standards and at this time UCPA would like to take the opportunity to endorse several of their specific recommendations.

First, NARF made the suggestion that those facilities which operate both a sheltered workshop and and a work activity center be permitted to integrate the less productive workers with the more productive workers when the results will be higher productivity and wages. As NARF has already pointed out, certain regulatory provisons require that sheltered workshops and work activity centers be physically separated from one another. As stated earlier, the UCPA Policy Statement on Employment and Career Education fully endorses enhancing the work activity environment so that those clients will be motivated to further develop their personal capabilities. It appears that the type of integration which NARF has proposed would enhance this process,and should this regulatory change be adopted, we would hope that rehabilitation facilities would take full advantage of this opportunity.

NARF has also made the suggestion that average earnings used to define work activity center should be re-examined and increased. Work activity centers are currently defined on a formula which assumes that clients within work activity centers work on more than 1500 hours a year at the average of 25% of the statutory minimum wage. Sheltered workshops on the other hand are allowed to pay not less than 50% of the minimum wage. Thus there appears to be a discrepancy of 25% between wage allowance for work activity centers and those for sheltered workshops. This appears to place both workshop administrators and their clients in a no-win situation. NARF has suggested that regulatory changes be made which would allow for the work activity center average income to be based on the following formula: statutory minimum wage X .45 X 1,500 hours. This formula would not affect the requirement that handicapped persons employed by work activity centers be paid on the basis of productivity and commensurate wages. Again, UCPA believes that the only way to constructively foster improvement in the sheltered workshop system is to allow for more flexibility than has been previously seen. It cannot be denied that work activity centers employ persons with substantial disabilities which impair employment opportunities. However, it appears that changing the above formula could enhance the client's own ability to improve his or her own employment potential.

Further, along with NARF and others, we fully support increasing monies for the purpose of training sheltered workshop personnel in the management of their programs. There appears to be a lack of communication between workshop administrators and the Department of Labor and this leads to confusion of all parties involved. We would also suggest that workshop administrators also be trained in the practical application of rehabilitation engineering. A clear understanding of the Department of Labor's requirements and goals coupled with working knowledge of certain aspects of rehabilitation engineering would work together to enhance the sheltered workshop environment for all involved.

Along with many of our sister agencies, we would like to offer our strong support for the reestablishment of the Advisory Committee on Sheltered Workshops with DOL. This committee can be a useful instrument in fostering the types of ongoing changes which UCPA and others are advoacting. We would further recommend that if the committee is reestablished, that it have consumer members. Only through dialogue with those persons who are directly affected by this committee can such a body truly serve in an advisory capacity. Further it would appear that this Committee should also have representatives from the Department of Health and Human Services (specifically the Social Security Administration and the Administration on Developmental Disabilities) and the Department of Education (specifically the Office of Special Education and Rehabilitation Service). Such a collective effort will assure that sheltered workshops are aided and supported by other service delivery systems. Further, some of these agencies, specifically RSA, share jurisdiction over sheltered workshops and therefore should be included in any type of advisory committee.

We would also like to commend the Committee on Purchase for the Blind and Other Severely handicapped for their administration of the Javits-Wagner-O'Day Act. The procurements made through the Javits-Wagner-O'Day Act have been instrumental in helping sheltered workshops continue employing severely handicapped persons and the Congress must keep this responsibility in mind.

We would also like to support the expansion of the existing Small Business Administration set-aside programs. SBA set-aside programs have offered several opportunities for sheltered workshops to expand their programs. We would further like to offer a few suggestions as to how the SBA set-aside program could be modified to enhance more gainful employment of handicapped persons. These suggestions come from Centers Industries in Wichita, Kansas. Center Industries is a SBA set-aside recipient. In order to receive a SBA loan, a workshop must have a ratio of 75% handicapped persons to 25% able-bodied persons. They firmly believe that this ratio should be changed to 60% handicapped persons to 40% able-bodied persons. They believe that if such a ratio were allowed, the quality of the contracts which they are able to receive would be improved. Further by enabling handicapped persons to learn skills from their able-bodied peers, their chances of moving into better competitive placements would increase. Finally, such a ratio is more consistent with mainstreaming of handicapped persons into society. We believe that these changes would enhance the ability of work programs to offer greater employment opportunities to severely handicapped persons.

Finally, we feel that stronger linkages must be developed between rehabilitation engineering and the sheltered workshop environment We believe that persons within DOL who are responsible for the day-to-day oversight of sheltered workshops should be knowledgeable in this area. Perhaps DOL should establish a liaison with the National Institute on Handicapped Research so that workshop personnel are made aware of those aspects of rehabilitation engineering which would enhance the quality of their programs. It is clear that this is at least one answer to the multi-faceted question of improving workshop employment and must not be over looked.

We appreciate the opportunity to submit this testimony to the Subcommittee on Labor Standards and we would be pleased to answer any questions the Subcommittee might have.

Attachment 1

UNITED CEREBRAL PALSY ASSOCIATIONS, INC.

Resolution

on

EMPLOYMENT AND CAREER EDUCATION

WHEREAS, in the domain of human rights UCPA, Inc., has long supported the belief that the fundamental moral and constitutional rights of persons must not be abrogated merely because a person has a physical or mental disability; and

WHEREAS, in the domain of educational programming and human services UCPA supports the belief that all people are inherently valuable, can grow and develop, are entitled to conditions which foster growth and development, and that such conditions should be optimally provided in community settings; and

WHEREAS, it is one of the said purposes under Section 2 (D) of UCPA's By-Laws "to promote the employment of persons with cerebral palsy"; and

WHEREAS, in recent years some UCP affiliates and other service and research programs have interfaced and cooperated with federal and state programs, other service agencies, private businesses and universities to develop methods and resources that have enhanced employment opportunities for persons with cerebral palsy and other disabilities who are moderately and severely disabled; and

WHEREAS, it is the recommendation of the Professional Services Program Committee of UCPA, Inc., that the corporation adopt the following objectives as a framework and guide for further activities and development; now therefore be it

RESOLVED, That UCPA, Inc., adopt this resolution to meet the following objectives:

1. To elevate the employee/client situtation in sheltered workshops and work activity centers in the areas of wages, training, and employment opportunities.

2. To promote the provision of at least a minimum of training in pre-employment skills in work activity centers rather than providing services of just a developmental nature.

3. To promote employment or optimum lifetime career opportunities for persons with moderate and severe disabilities by working closely with the Department of Labor and appropriate national and local organizations.

over

4. To promote programs that will provide opportunities for persons with cerebral palsy to develop managerial skills.

5. To assist handicapped persons who desire to be self-employed to gain technical assistance.

6. To play a strong supportive role in narrowing the gap that presently exists between persons with cerebral palsy, their advocates and the potential employers.

7. To promote funding by private employers to expand effective employment programs which will assist disabled persons to be placed in the competitive employment market.

8. To work with all appropriate program service entities to promote a comprehensive range of services with particular emphasis on pre-employment, placement, job development, job restructuring, employment, post-employment, and follow-along areas.

9. To implement more creative and innovative programming with emphasis on rehabilitation engineering and other current technology in exploring job opportunities for severely disabled persons.

10. To work with all appropriate employment, education, and training entities to fully integrate the education and rehabilitation processes within the public school experience.

11. To work toward the more effective involvement of persons with cerebral palsy in the vocational process.

Approved at the Annual Meeting of UCPA, Inc.
May 3, 1980 -- Kansas City, Mo.

AFFILIATED LEADERSHIP LEAGUE
OF AND FOR THE BLIND OF AMERICA
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Executive Director
William T. Snyder

July 2, 1980

Hon. Edward P. Beard, chairman
Sub-Committee on Labor Standards
Committee on Education and Labor
U.S. House of Representatives
Room 617, House Office Annex No. 1
Washington, D.C. 20515

Re: Employment Standards in
Sheltered Workshops for the Blind
Public Hearings of May 14-15, 1980

Dear Mr. Chairman:

At the annual National Delegate Assembly of the Affiliated Leadership League of and for the Blind of America, Inc., held in Boston June 26 through 28, 1980, delegates from member organizations adopted a resolution relative to sheltered workshop policies and remuneration of blind employees. This resolution is attached, and we deeply appreciate your offer to have it included with supplemental statements to the public hearings heard by your committee on May 14-15, 1980.

The Affiliated Leadership League of and for the Blind of America, Inc., is a coalition and cooperating association of more than sixty of the leading consumer, provider, and professional membership organizations in the blindness field. Our member organizations directly involve well over twenty-five thousand blind and visually impaired persons; directly employ over six thousand blind and visually impaired persons; and offer well over a quarter million services to blind and visually impaired persons in the United States each year.

Our list of member organizations is enclosed for your information and use.

Very truly yours,

William T. Snyder
executive director

WTS:gk
cc: Earl F. Pasbach
enclosures

RESOLUTION 80 - 4

**Affiliated Leadership League
of and for the Blind of America, Inc.**

National Delegate Assembly, Boston Massachusetts

June 28, 1980

Whereas, present regulations of the Fair Labor Standards Act provide for the employment of all blind persons, regardless of the severity of their handicap, and the payment of wages commensurate with the prevailing industry wage rate in the community and the individual's ability to produce; and

Whereas, there is a need to express concern that the regulations be fairly applied in the employment of handicapped persons in sheltered workshops,

Therefore, be it resolved, that the Affiliated Leadership League of and for the Blind of America advocates:

1. That National Industries for the Blind increase its involvement in:

   a. Training management personnel in local workshops.
   b. Monitoring workshop application of prevailing wage rates.
   c. Encouraging use of modern and efficient production methods and equipment.
   d. The establishment of realistic production standards and resultant piece rates to assure that "clients" and employees reach their highest productivity capabilities.

2. That the Department of Labor be required to:

   a. Increase the frequency of audits and oversight reviews of sheltered workshops to assure compliance with wage and hour regulations.
   b. Require more detailed documentation of individual productivity as related to production standards and prevailing wage rates.
   c. Provide training for workshop management personnel to assure adequate knowledge in the application of wage and hour regulations.

3. The Federal Government provide a wage subsidy directly to persons served in regular workshop programs sufficient to bring the total pay up to a level equal to the Federal minimum wage, with no affect on SSI or SSDI benefits.

4. The work activities center concept remain unchanged in its requirement for separation of regular workshop programs from theraputic work activities for the more severely handicapped persons whose productivity is inconsequential.